

PLANNING AND DEVELOPMENT DEPARTMENT
LAND USE PLANNING DIVISION

PLANNING COMMISSION MEETING AGENDA

Date: Wednesday, July 16th, 2025

Time: 6:00 PM

Location: North Berkeley Senior Center
1901 Hearst Avenue, Berkeley

The Planning Commission meeting packet is available for review on the City's website, and linked here:

<https://berkeleyca.gov/your-government/boards-commissions/planning-commission>

The Commission currently consists of nine members appointed by City Council:

Blaine Merker, District 1

Jeff Vincent, District 2

Darrell Owens, District 3

Christina Oatfield, District 4

Charles Kahn, District 5

Emily Marthinsen, Chair, District 6

Alfred Twu, District 7

Savlan Hauser, Vice Chair,
District 8

Vacant, Mayor



ACCESSIBILITY INFORMATION / ADA DISCLAIMER

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This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist at: Email: ADA@berkeleyca.gov; Phone: 1-510-981-6418; TTY: 1-510-981-6347, at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

For inclusion in the Commissioners' agenda packet, please submit written comments by Wednesday the week prior to the meeting. One set of "late communications" will be distributed to the Commissioners one day before the meeting. Please submit any material for distribution as "late communications" no later than 12:00 noon on the Tuesday prior to the meeting. Please be advised: Commissioners do not have an opportunity to read written materials handed out at the meeting.

Correspondence and Notice of Decision Requests

- **To distribute correspondence for inclusion in the agenda packet** -- submit comments **by 12:00 noon, Wednesday July 9, 2025**. Please provide 12 copies of any correspondence with more than ten (10) pages or if in color or photographic format. This method is strongly preferred.
- **Late Communications** must be submitted **by 12:00 noon, Tuesday July 15, 2025**. Any correspondence received after this deadline will be given to Commission members on the meeting date just prior to the meeting. Correspondence received later, and after the meeting, will be posted to the website following the meeting.
- Staff will not deliver to Commission members any additional written (or e-mail) materials received after 12:00 noon on the day of the meeting.
- Members of the public may submit written comments themselves at the meeting. To distribute correspondence at the meeting, please provide 12 copies and submit to the Planning Commission Secretary. **Please be advised: You are strongly advised to submit written comments *prior* to the meeting date as Commission members do not have an opportunity to read written materials handed out at the meeting.**
- Written comments or request for a Notice of Decision should be directed to the Planning Commission Secretary.

Communications to Berkeley Boards, Commissions or Committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City Board, Commission or Committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the Secretary of the relevant Board, Commission or Committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the Secretary to the relevant board, Commission or Committee for further information.**

Contact:

Alisa Shen, Planning Commission Secretary

(510) 981.7409 | ashen@berkeleyca.gov | 1947 Center Street, Berkeley CA 94704

1. **ROLL CALL:** Please put all cellular phones and ringers on silent during the meeting.

2. **LAND ACKNOWLEDGEMENT STATEMENT:** The Commission recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley’s residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley’s incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.

3. **PUBLIC COMMENT on Non-Agenda and Information Items** (Three minutes per person; five minutes per organization, or at the discretion of the Chairperson)

4. **ORDER OF AGENDA**

5. **CHAIRPERSON REPORT**

6. **AD HOC Subcommittees and Liaison Comments**
 Receive opportunity reports on status of projects for which the Planning Commission has established a subcommittee or liaison.

7. **COMMISSIONER ANNOUNCEMENTS**

8. **STAFF ANNOUNCEMENTS**

9. **APPROVAL OF MINUTES**

10. **ACTION AND DISCUSSION ITEMS**
 - A. **Public Hearing:** **Amendments to Title 23 (Zoning) to ensure compliance with State ADU Laws Regarding Off-Street Parking**
 - Recommendation:** Conduct a public hearing, receive public comment, and upon conclusion, make a recommendation to the City Council to adopt proposed amendments (**Attachment 1**) to the Zoning Ordinance to bring the City’s Accessory Dwelling Unit (ADU) regulations into compliance with recent changes to State law with respect to minimum off-street parking requirements.
 - Written Materials:** Attached.
 - Presentation:** N/A

B. Discussion:	Senate Bill 684 (2023) Small Lot Subdivision and Housing Development
Recommendation:	Review the staff report, receive the staff presentation, consider public comments, and provide feedback to staff on policy issues regarding Senate Bill 684 (SB 684) implementation.
Written Materials:	Attached
Presentation:	N/A

11. INFORMATION REPORTS: None.

12. CORRESPONDENCE

13. NEXT COMMISSION MEETING: Wednesday September 17, 2025 6:00 PM.

14. ADJOURN

NOTICE CONCERNING LEGAL RIGHTS

If you object to a project or to any City action or procedure relating to a project application, any lawsuit which you may later file may be limited to those issues raised by you or someone else in the public hearing on the project, or in written communication delivered at or prior to the public hearing. The time limit within which to commence any lawsuit or legal challenge related to these applications is governed by Section 1094.6, of the Code of Civil Procedure, unless a shorter limitations period is specified by any other provision. Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred.



Planning Commission

**DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING
June 4, 2025**

The meeting was called to order at 6:00 p.m.

Location: North Berkeley Senior Center, 1901 Hearst Avenue, Berkeley, CA 94709

1. ROLL CALL:

Commissioners Present: Christina Oatfield, Alfred Twu, Darrell Owens, Emily Marthinsen, Blaine Merker, Savlan Hauser, Jeff Vincent and Charles Kahn

Commissioners Absent: None

Staff Present: Secretary Alisa Shen, Clerk Faye Messner, Justin Horner, Branka Tatarevic

2. LAND ACKNOWLEDGEMENT

The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Chochen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.

3. PUBLIC COMMENT: 1

4. ORDER OF AGENDA:

5. CHAIRPERSON REPORT:

- None

6. AD HOC SUBCOMMITTEES AND LIASON COMMENTS

- None

35 **7. COMMISSIONER ANNOUNCEMENTS**

- 36 • None

37

38 **8. STAFF ANNOUNCEMENTS**

- 39 ○ Amendments to the Zoning Ordinance related to Middle Housing to be considered
40 by City Council on June 26
41 ○ Info Item: General Plan and Housing Element Annual Progress Report, available
42 online
43 • July 16th Meeting Agenda
44 ○ Discussion of Implementation of SB 684

45 **9. APPROVAL OF MINUTES:**

46 Motion/Second (Vincent/Merker) to approve the Planning Commission Meeting Minutes from
47 May 7th, 2025.

48

49 Ayes: Merker, Vincent, Owens, Oatfield, Kahn, Marthinsen, Twu and Hauser. Noes: None.
50 Abstain: None. Absent: None (8-0-0-0). Motion passed.

51

52 **10. ACTION AND DISCUSSION ITEMS**

53 **A. Public Hearing: Amendments to the Zoning Map to Redesignate Parcels Zoned R-1A**
54 **(Limited Two-Family Residential) to R-2 (Restricted Two-Family Residential).**

55 Principal Planner Justin Horner presented on proposed amendments to the Zoning Map to
56 redesignate parcels zoned R1-A (Limited Two-Family Residential) to R-2 (Restricted Two-
57 Family Residential). Commissioners took public comment, asked questions and made
58 comments including, but not limited to: appreciation for the public's attendance and comments,
59 the importance of making changes to the Zoning Map and Ordinance now for future
60 development, how infrastructure should be considered with Middle Housing zoning changes and
61 public consensus on the need for housing in Berkeley.

62 Motions/Second (Oatfield/Vincent) to close the public hearing at 7:22

63

64 Ayes: Merker, Vincent, Owens, Oatfield, Kahn, Marthinsen, Twu and Hauser. Noes: None.
65 Abstain: None. Absent: None (8-0-0-0). Motion passed.

66

67 Motions/Second (Owens/Kahn) to merge the R1-A and R-2 Zoning Districts per staff's
68 recommendation.

69

70 Ayes: Merker, Vincent, Owens, Kahn, Marthinsen, Twu and Hauser. Noes: None. Abstain:
71 Oatfield. Absent: None (7-0-1-0). Motion passed.

72

73 **Public Comments: 33**

74 **B. Public Hearing: Amendments to Title 23 (Zoning) to ensure compliance with State ADU**
75 **laws.**

76 Associate Planner Branka Tatarevic presented on proposed amendments to the Zoning
77 Ordinance (Title 23) to bring Berkeley's ADU regulations into compliance with State law.
78 Commissioners took public comment, asked questions and made comments including, but not
79 limited to: the importance of bringing our ADU regulations into compliance with State law,
80 expanding the maximum size of ADUs to serve a broader set of households, distinguishing
81 between attached and detached ADUs in the Ordinance language, and rental terms for JADUs.

82 Motions/Second (Merker/Kahn) to close the public hearing at 8:13.

83
84 Ayes: Merker, Vincent, Owens, Oatfield, Kahn, Marthinsen, Twu and Hauser. Noes: None.
85 Abstain: None. Absent: None (8-0-0-0). Motion passed.

87 Motions/Second (Kahn/Owens) to accept all modifications to the Zoning Ordinance proposed
88 by staff with the addition of those proposed by the ADU Task Force.

89
90 Ayes: Merker, Vincent, Owens, Oatfield, Kahn, Marthinsen, Twu and Hauser. Noes: None.
91 Abstain: None. Absent: None (8-0-0-0). Motion passed.

92
93 **Public Comments: 4**

94 **C. Public Hearing: Amendments to Title 23 (Zoning) to require undergrounding of**
95 **transformers on private property.**

96 Associate Planner Branka Tatarevic presented on proposed amendments to the Zoning
97 Ordinance (Title 23) to require undergrounding of transformers on private property.
98 Commissioners took public comment, asked questions and made comments including, but not
99 limited to: the types of projects that require transformers, the impacts that transformers have on
100 urban design and public space, cost impacts of undergrounding transformers, and applying
101 undergrounding requirements to projects citywide.

102 Motions/Second (Merker/Vincent) to close the public hearing at 8:47

103
104 Ayes: Merker, Owens, Kahn, Marthinsen, Hauser. Vincent, Oatfield and Twu. Noes: None.
105 Abstain: None. Absent: None. (8-0-0-0). Motion passed.

106
107 Motions/Second (Twu/Kahn) to amend the staff proposal as follows: to apply the transformer
108 undergrounding requirement to all residential and commercial zoning districts, and to all
109 residential, commercial, and mixed use projects citywide.

111 Ayes: Merker, Vincent, Owens, Oatfield, Kahn, Marthinsen, Twu and Hauser. Noes: None.
112 Abstain: None. Absent: None (8-0-0-0). Motion passed.
113

114 **Public Comments: 4**

115 **12. INFORMATION REPORTS**

- 116 • 2024 General Plan and Housing Element Annual Progress Reports.

117 **13. CORRESPONDENCE**

- 118 • General

119 **14. NEXT COMMISSION MEETING: Wednesday, July 16th, 2025 at 6:00pm**

120 **15. ADJOURN**

121 Motions/Second (Kahn/Owens) to adjourn the meeting at 9:13 pm.
122
123 Ayes: Merker, Vincent, Owens, Oatfield, Kahn, Marthinsen, Twu and Hauser. Noes: None.
124 Abstain: None. Absent: None (8-0-0-0). Motion passed.
125

126 **Members in the public in attendance: 77**

127 **Public Speakers: 42**

128 **Length of the meeting: 3 hours and 13 minutes**



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: July 16, 2025
To: Members of the Planning Commission
From: Justin Horner, Principal Planner
Subject: Amendments to Title 23 (Zoning) to ensure compliance with State ADU Laws Regarding Off-Street Parking

RECOMMENDATION:

Conduct a public hearing, receive public comment, and upon conclusion, make a recommendation to the City Council to adopt proposed amendments (**Attachment 1**) to the Zoning Ordinance to bring the City's Accessory Dwelling Unit (ADU) regulations into compliance with recent changes to State law with respect to minimum off-street parking requirements.

BACKGROUND AND DISCUSSION

At its June 4, 2025 meeting, the Planning Commission held a public hearing to adopt proposed changes to the Zoning Ordinance to bring the City's Accessory Dwelling Unit (ADU) regulations into compliance with recent changes to State law.

As part of public comment on that item, the Planning Commission received a letter from the California Housing Defense Fund (**Attachment 2**). The letter asserted that the off-street parking requirements for ADUs in the Hillside Overlay (Berkeley Municipal Code (BMC) Section 23.322.030, Table 23.322-1) are inconsistent with State law, which prohibits the imposition of development standards beyond those specifically authorized. The letter refers to the California Department of Housing and Community's Development's ADU Handbook,¹ which includes the following:

*A local agency may not impose development or design standards, including both local standards and standards found in State ADU Law, on 66323 Units that are not specifically listed in Government Code section 66323. (Gov. Code, § 66323, subs. (a), (b).) This includes, but is not limited to, **parking**, height, setbacks, or*

¹ <https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/adu-handbook-update.pdf>

other zoning provisions (e.g., lot size, open space, floor area ratio, etc.). (pg. 20; **emphasis added**)

The City Council had initially adopted this off-street parking requirement for areas in the Very High Risk Fire Severity Zone with an understanding that State law had included provisions to permit off-street parking requirements in areas of documented public safety concern. Upon receiving the letter from the California Housing Defense Fund, Planning staff consulted with the City Attorney, who concurred that eliminating the off-street parking requirement for ADUs in the Hillside Overlay was required for the City’s ADU regulations to conform with State law.

The proposed zoning amendments are contained in Berkeley Municipal Code Chapter 23.322 (Parking and Loading). The revisions would revise the line applying to ADUs in Table 23.322-1 in BMC Section to read as follows:

Land Use	Number of Required Off-Street Parking Spaces
Accessory Dwelling Unit	<p><u>Junior ADU</u>: None required</p> <p><u>ADU outside of Hillside Overlay</u>: None required</p> <p><u>ADU within Hillside Overlay: 1 per ADU unless the parcel satisfies the criteria in subdivision (a) of Government Code Section 66322, using the definition of public transit as established in subdivision (l) of Government Code 66313.</u></p>

ENVIRONMENTAL REVIEW

The proposed ordinance amendments are statutorily exempt from the California Environmental Quality Act, per Guidelines Section 15282 “Other Statutory Exemptions” (h) which states:

(h) The adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.

NEXT STEPS

Staff recommends that the Planning Commission conduct a public hearing, receive public comment, discuss the proposed ordinance amendments, and forward a recommendation

to the City Council to adopt the amendments, including any modifications identified through Commission discussion and action.

CONTACT PERSON

Justin Horner, Principal Planner, Planning and Development, 510-981-7476

Attachments:

1. Resolution;
 Att. A: Ordinance Amendments
- 2: California Housing Defense Fund Letter, June 2, 2025.
- 3: Public Hearing Notice.

ATTACHMENT 1

**PLANNING COMMISSION
RESOLUTION NO. 2024-08**

**A RESOLUTION OF THE CITY OF BERKELEY PLANNING COMMISSION
RECOMMENDING THE CITY COUNCIL ADOPT PROPOSED AMENDMENTS TO TITLE 23
(ZONING) TO ENSURE COMPLIANCE WITH STATE ADU LAWS**

WHEREAS, the City of Berkeley must ensure that its Zoning Ordinance complies with State law with respect to Accessory Dwelling Units (ADUs), so from time to time must amend the Zoning Ordinance; and

WHEREAS, the amendments do not change the designation of any parcel to reduce the intensity of use allowed under the existing General Plan or zoning pursuant to Gov. Code section 66300(b)(1); and

WHEREAS, on July 17, 2025, the Planning Commission held a public hearing and considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request; and

WHEREAS, a public hearing notice was published in the Berkeley Voice and posted in three public places pursuant to California Government Code Section 65090 on June 20, 2025 for the public hearing held on June 4, 2025.

WHEREAS, all documents constituting the record of this proceeding are and shall be retained by the City of Berkeley Planning and Development Department, Land Use Planning Division, at 1947 Center Street, Berkeley, California.

WHEREAS, the proposed ordinance amendments are statutorily exempt from the California Environmental Quality Act, per Guidelines Section 15282(h).

NOW, THEREFORE, IT BE RESOLVED that the Planning Commission does hereby recommend to the City Council of the City of Berkeley to amend Title 23, as shown in Exhibit A; and

BE IT FURTHER RESOLVED, that pursuant to Berkeley Municipal Code Section 23.412.060(A)(1)-(3), the Planning Commission makes the following findings to support its recommendation for the zoning ordinance amendments:

- 1. The proposed amendment is consistent with the General Plan and any applicable specific plan or area plan.**

Evidence: Per California Government Code § 66319, an ADU shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot.

- 2. The proposed amendment is consistent with state law.**

Evidence: The proposed amendments are recommended specifically because they are required for the City of Berkeley’s ADU regulations to be consistent with state law.

3. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare.

Evidence: The zoning ordinance amendments serve the public interest by facilitating additional housing capacity and production to better meet housing demand.

BE IT FURTHER RESOLVED, that pursuant to Berkeley Municipal Code Section 23.412.060 (B) the Planning Commission makes the following findings to support its recommendation for the zoning ordinance amendment:

B. The proposed amendment is internally consistent with other applicable provisions of the Zoning Ordinance.

Evidence: Per California Government Code § 66319, an ADU shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located and shall be deemed to be a residential use that is consistent with the zoning designations for the lot.

I HEREBY CERTIFY the foregoing resolution was passed and adopted by the Planning Commission of the City of Berkeley, at a regular meeting thereof, held on the 4th day of June 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Alisa Shen,
SECRETARY TO THE PLANNING COMMISSION

EXHIBIT A
DRAFT
ORDINANCE AMENDMENTS

CHAPTER 23.322.030
REQUIRED PARKING SPACES

Table 23.322-1 REQUIRED OFFSTREET PARKING IN RESIDENTIAL DISTRICTS

Land Use	Number of Required Off-Street Parking Spaces
Residential Uses	
Accessory Dwelling Units	<p>Junior ADU: None required</p> <p>ADU outside of Hillside Overlay: None required</p> <p>ADU within Hillside Overlay: 1 per ADU unless the parcel satisfies the criteria in subdivision (d) of Government Code Section 65852.2, using the definition of public transit as established in subdivision (j)(11) of Government Code 65852.2.</p>



Jun 2, 2025

City of Berkeley
2180 Milvia St
Berkeley, CA 94704

Re: Proposed Amendments to City's ADU Ordinance

By email: fmessner@berkeleyca.gov

Cc: attorney@berkeleyca.gov; CManager@berkeleyca.gov; clerk@berkeleyca.gov;
planning@berkeleyca.gov; ashen@berkeleyca.gov; jhorner@berkeleyca.gov

Dear Berkeley Planning Commission,

The California Housing Defense Fund ("CalHDF") submits this letter as a public comment for the Planning Commission meeting of June 4, 2025 regarding item 10B, proposed amendments to the City's regulations for ADUs and JADUs. CalHDF would like to thank the City for making multiple changes to its ordinance in response to our previous letters.

However, the City's proposed ADU regulations fail to comply with state law in several ways, and the City should address these issues before adopting the ordinance.

Background

The law gives local governments authority to enact zoning ordinances that implement a variety of development standards on ADUs. (Gov. Code, § 66314.) The standards in these local ordinances are limited by state law so as not to overly restrict ADU development. (See *id.*) Separately from local ADU ordinances, Government Code section 66323 establishes a narrower set of ADU types that local governments have a ministerial duty to approve. "Notwithstanding Sections 66314 to 66322 ... a local agency shall ministerially approve" these types of ADUs. (*Id.* at subd. (a).) This means that ADUs that satisfy the minimal requirements of section 66323 must be approved regardless of any contrary provisions of the local ADU ordinance. (*Ibid.*) Local governments may not impose their own standards on such ADUs. (Gov. Code, § 66323, subd. (b) ["A local agency shall not impose any objective development or design standard that is not authorized by this section upon any accessory dwelling unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a)."].)

2221 Broadway, PH1, Oakland, CA 94612
hi@calhdf.org

In addition, ADUs that qualify for the protections of Government Code section 66323, like other ADUs, must be processed by local governments within 60 days of a complete permit application submittal. (Gov. Code, § 66317, subd. (a).)

State law also prohibits creating regulations on ADU development not explicitly allowed by state law. Government Code Section 66315 states, “No additional standards, other than those provided in Section 66314, shall be used or imposed, including an owner-occupant requirement, except that a local agency may require that the property may be used for rentals of terms 30 days or longer.”

Impermissible Permitting Requirements

City code 23.306.040 requires a Zoning Certificate for all ADUs or JADUs. However, this permitting step is forbidden by state law for ADUs that meet the standards of Government Code section 66323. From section 66323, subdivision (a): “Notwithstanding Sections 66314 to 66322, inclusive, a local agency shall ministerially approve **an application for a building permit ...**” This requirement was imposed by AB 3182 in 2020.

The City should amend its code to make clear that a Zoning Certificate is not required for ADUs and JADUs that meet the requirements of Government Code section 66323. Rather, the City must approve such ADUs and JADUs via a building permit application only.

Additionally, the City’s noticing requirements for ADU applications are illegal. City code 23.306.040(B)(3) requires applicants to pay for material cost, postage, and staff time to mail notices of an ADU application to “tenants of the subject property, and owners and tenants of the adjacent, confronting, and abutting properties, within ten working days of submission of the building permit application to the City.”

As discussed *supra*, Government Code section 66315 forbids the imposition of any standards not contained in Government Code 66314 on ADU development, and Government Code section 66323, subdivision (b) forbids imposition of any design or development standards beyond what is contained in section 66323. Reimbursing the City to notify neighbors is a “development standard” and the City therefore may not impose it on ADU applications.

Furthermore, the public purpose of such noticing is unclear, when these are ministerial approvals and the public has no opportunity to provide input on an individual ADU or JADU project.

Impermissible Parking Requirements

City code Table 23.322-1 imposes off-street parking requirements on ADUs. Table 23.322-1 imposes a parking requirement of one space per ADU in the Hillside Overlay unless the parcel is near public transit.

However, as discussed *supra*, the City may not impose any development standards on ADUs eligible for the protections of Government Code section 66323, subdivision (a) beyond the height and setback requirements specified by state law. (Gov. Code, § 66323, subd. (b).) This means that the City may not impose any off-street parking requirements on such ADUs.

Page 20 of the January 2025 HCD ADU [Handbook](#) is instructive (emphasis added):

“What design, zoning, or other local standards can be imposed on 66323 Units?
A local agency may not impose development or design standards, including both local standards and standards found in State ADU Law, on 66323 Units that are not specifically listed in Government Code section 66323. (Gov. Code, § 66323, subs. (a), (b).) This includes, but is not limited to, **parking**, height, setbacks, or other zoning provisions (e.g., lot size, open space, floor area ratio, etc.).

The City should amend the code to eliminate this off-street parking requirement, as it is clearly forbidden by state law.

Impermissible Setback Requirements for 150 Square Foot Additions

City code section 23.306.030(A)(1) mandates that a 150 square foot addition to an existing structure for an ADU conversion comply with “maximum height and setback requirements.” It is unclear which setback requirements this section of code is referring to. However, assuming that it is referring to the requirements of the underlying zoning district, Government Code section 66323, subdivision (a)(1)(A) allows for a 150 square foot addition to conversion ADUs to facilitate ingress and egress. Furthermore, as discussed *supra*, Government Code section 66323 does not allow for the imposition of any underlying zoning standards. The City must allow such a 150 square foot expansion even if it is located within a setback area and must apply only the setbacks listed in section 66323 to ADUs that meet that code section’s requirements.

Impermissible Deed Restriction Requirement

City code section 23.306.040(C) requires an ADU applicant to place a deed restriction on the property as a condition of the application. This is a clear violation of Government Code section 66323, which prohibits any standards not explicitly authorized in that section. Deed restrictions are also not permitted by Government Code section 66315, which forbids standards not listed in section 66314, and it is unclear why the City would want applicants to

go through the trouble of filing such a deed restriction, other than to discourage ADU development by increasing development cost.

The California Department of Housing and Community Development (“HCD”) has communicated that such deed restrictions are unlawful. The January 2025 HCD ADU [Handbook](#) specifically forbids deed restrictions as a condition of ADU development (see page 22): “A local agency cannot impose a deed restriction on an ADU.”

Additionally, such deed restrictions imposed on ADUs (or on other accessory structures) are unenforceable. This is due to the absence of horizontal privity between the City and the applicant. In other words, since the City does not own the applicant’s property at the time of the application, and does not own a neighboring property to whose benefit the proposed restriction(s) redound, black letter property law bars the restrictions from binding future property owners. (See, e.g., *Scaringe v. J. C. C. Enters* (1988) 205 Cal.App.3d 1536 [describing the types of privity relationship between covenanting parties that allow enforcement of a deed restriction]; see also Civ. Code, §§ 1460 et seq.)



CalHDF appreciates the City’s effort to implement state law governing ADU construction. However, the City should amend its ordinance to ensure that it complies with state law.

CalHDF is a 501(c)(3) non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

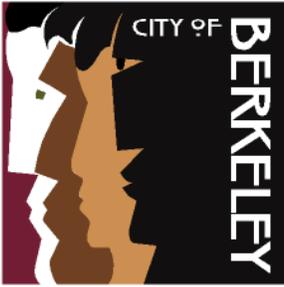
Sincerely,

A handwritten signature in blue ink, appearing to read "Dylan Casey".

Dylan Casey
CalHDF Executive Director

A handwritten signature in black ink, appearing to read "James M. Lloyd".

James M. Lloyd
CalHDF Director of Planning and Investigations



PLANNING COMMISSION

Notice of Public Hearing

Wednesday, July 16, 2025

Amendments to Berkeley Municipal Code Chapter 23.322 (Parking and Loading) pertaining to Accessory Dwelling Units

The Planning Commission of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23A.20.030, on **Wednesday, July 16, 2025, beginning at 6:00 pm.**

PROJECT DESCRIPTION

Amend the Berkeley Municipal Code (BMC) to remove minimum off-street parking requirements for Accessory Dwelling Units (ADUs), as required by State law

LOCATION: Citywide.

ENVIRONMENTAL REVIEW STATUS

The proposed zoning ordinance amendments do not increase development capacity or propose other physical changes to the environment that are not already permitted and previously evaluated under California Environmental Quality Act (CEQA). Adoption of the proposed amendments would not have a significant effect on the environment, and therefore are not subject to CEQA (CEQA Guidelines Section 15061(b)(3), Common Sense Exemption).

Notwithstanding the above, the proposed ordinance amendments are statutorily exempt from CEQA, per Guidelines Section 15282, "Other Statutory Exemptions" (h) which states:

(h) The adoption of an ordinance regarding second units in a single-family or multifamily residential zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code as set forth in Section 21080.17 of the Public Resources Code.

PUBLIC COMMENT & FURTHER INFORMATION

All persons are welcome to attend the hearing and will be given an opportunity to address the Commission. Comments may be made verbally at the public hearing and/or in writing before the hearing. Written comments must be directed to:

Justin Horner
Planning Commission Clerk, Acting
Email: PlanningPC@berkeleyca.gov

City of Berkeley, Land Use Planning Division
1947 Center Street, 2nd Floor
Berkeley, CA 94704

Correspondence received by **12pm on Tuesday, July 8, 2025**, will be included as a Communication in the agenda packet. Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:

- Correspondence received by **12pm on Monday, July 14, 2025** will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication one day before the public hearing.
- Correspondence received by **5pm on Tuesday, July 15, 2025** will be included in a second Supplemental Packet, which will be posted to the online agenda as a Late Communication by 5pm on the day of the public hearing.
- Correspondence received **after 5pm on Tuesday, July 15, 2025** will be saved as part of the public record.

Members of the public may submit written comments just before or at the beginning of the meeting by providing 15 printed copies of the correspondence to the Planning Commission Secretary.

COMMUNICATION ACCESS

To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice) or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability. All materials will be made available via the Planning Commission agenda page online at <https://berkeleyca.gov/your-government/boards-commissions/planning-commission>.

FURTHER INFORMATION

Questions should be directed to Branka Tatarevic, at (510) 981-7472 or btatarevic@berkeleyca.gov. Current and past agendas are available on the City of Berkeley website at: <https://berkeleyca.gov/your-government/boards-commissions/planning-commission>.



Planning and Development Department
Land Use Planning Division

STAFF REPORT
July 16, 2025

TO: Members of the Planning Commission
FROM: Branka Tatarevic, Associate Planner
SUBJECT: Senate Bill 684 (2023) Small Lot Subdivision and Housing Development

RECOMMENDATION

Staff recommends that the Planning Commission review the staff report, receive the staff presentation, consider public comments, and provide feedback to staff on policy issues regarding Senate Bill 684 (SB 684) implementation.

BACKGROUND

The implementation of SB 684 has been prompted by a City Council referral, “Expanding Homeownership Opportunities for Middle-Income Earners,” which instructs staff and the Planning Commission to amend Title 21 (Subdivisions) and possibly 23 (Zoning) to implement Senate Bill 684 (Caballero, 2023).

Senate Bill 684 (2023) Small Lot Subdivision and Housing Development

SB 684 (Gov. Code §§ 65852.28, 65913.4.5 & 66499.41), effective July 1, 2024, allows a city to adopt a local ordinance enabling ministerial approval of a housing development, on a site zoned for multi-family use¹ of less than 5 acres or a vacant lot zoned for single-family residential development that is no larger than one and one-half acres, with up to 10 dwelling units, which may be subdivided ministerially into no more than 10 ownership units. Parcel or tentative maps for such a project must be approved within 60 days, must be located on multi-family zones sites², and are exempt from review under the California Environmental Quality Act (CEQA).

In Berkeley, such small-lot subdivisions have been infeasible because of the City’s minimum lot size requirements (5,000 square feet per new lot in many zoning districts). Condominium subdivisions also triggered full discretionary development and subdivision review under the Subdivision Map Act, adding cost, delay, and uncertainty that has discouraged entry-level homeownership projects.

¹ In Berkeley, that includes the following districts: R-1(outside the Hillside Overlay zone), R-2, R-2A; R-3, R-4, R-5, R-S, R-SMU, R-BMU, C-C, C-U, C-N, C-E, C-NS, C-SA, C-T, C-SO, C-DMU, C-W, C-AC, and MU-R.

² In Berkeley, that includes all zoning districts except M, MM, MU-LI and M-RD zoning district.

By limiting local review to objective standards and eliminating public hearings, SB 684 creates a streamlined path for starter homes and other missing-middle ownership housing.

On January 21, 2025, the City Council adopted a referral, “Expanding Homeownership Opportunities for Middle-Income Earners” (**Attachment 1**), directing the City Manager and Planning Commission to revise BMC Titles 21 (Subdivisions) and 23 (Zoning) to implement SB 684 by establishing a ministerial approval process for small-lot subdivisions. The referral highlights the bill’s potential to expand fee-simple and common-interest ownership opportunities, such as duplexes, triplexes, and other middle housing types, for moderate-income residents who are currently priced out of Berkeley’s housing market.

Senate Bill 1123 (Caballero 2024)

Senate Bill 1123 (SB 1123) was signed into law on September 19, 2024. SB 1123 amends SB 684 to broaden ministerial small-lot subdivision beyond multifamily-zoned sites. Beginning July 1, 2025, projects of ten or fewer units may also qualify on vacant single-family lots up to 1.5 acres in size³, provided newly created lots are at least 1,200 square feet. Accessory Dwelling Units (ADUs) and Junior ADUs are expressly excluded from the 10-unit cap, and local agencies may impose only an objective height limit on qualifying vacant single-family sites. The bill also confirms that any existing dwelling(s) must remain under a common title after subdivision, preventing fee-simple splits of current structures.

Additional amendments align the law with a wider range of ownership models and relaxed development standards. Qualifying projects may now be held in tenancy-in-common (TIC) or on land owned by a community land trust. Density compliance is eased from 100 percent to not less than least 66 percent of the maximum allowable residential density, and minimum street-frontage requirements are eliminated altogether. As with the SB 684, ministerial approval must occur within statutory timelines and remains exempt from CEQA, with statewide application to charter and general-law cities.

Los Angeles Small-Lot Subdivision Ordinance: Precedent for SB 684

The City of Los Angeles pioneered California’s small-lot subdivision concept in the early 2000s, reducing minimum lot sizes so townhouse-style homes could be built on underutilized commercial and multifamily parcels. From 2010-2020 the city issued certificates of occupancy for 1,413 small-lot dwellings—averaging 39 dwelling units per acre (du/ac) in multifamily zones and 61 du/ac in medium-high zones, compared with roughly 8 du/ac in single-family districts. Los Angeles’ Small-Lot Subdivision Ordinance still requires small-lot projects to complete a two-step tentative/final map process,

³ The City’s remaining single-family zone is the R-1H.

adding time and cost even when the resulting density matches what an apartment building could achieve on the same site.⁴

SB 684 applies this Los Angeles model statewide, and allows jurisdictions to approve small-lot subdivisions ministerially under objective standards.

Examples of Local Implementation of SB 684

City of Los Angeles

Los Angeles City Planning issued a July 2024 memorandum detailing how ministerial processing for up to 10-unit small-lot subdivisions would be handled, including objective standards, eligibility checklists, and electronic processing. The memorandum details how an SB 684 project is processed differently than a project under Los Angeles' Small Lot Subdivision Ordinance.⁵

City of Campbell

In 2024, Campbell's City Council adopted Urgency Ordinance No. 2311, explicitly amending its Subdivision and Zoning Code to allow SB 684-eligible small-lot subdivisions via a ministerial pathway, and suspending conflicting local standards.⁶

City of Hayward

The City of Hayward is accepting SB 684 "Small Lot Subdivision" applications ministerially via its e-Permit Portal, with a streamlined checklist published as of March 6, 2025, and compliant with SB 1123 updates.⁷

City of Lafayette

Rather than adopting a local ordinance, Lafayette is administering SB 684 directly through updated permit forms and application materials, effective July 1, 2024. The informational page notes upcoming updates, pursuant to SB 1123.⁸

DISCUSSION

Required Provisions for a Local SB 684 / SB 1123 Ordinance

⁴ [Assembly Committee on Local Government, Bill Analysis for SB 684 \(Caballero\), July 12 2023, pp. 5-6.](https://alcl.assembly.ca.gov/sites/alcl.assembly.ca.gov/files/SB%20684%20%28Caballero%29.pdf)

⁵ [LA City Planning SB 684 Implementation Memorandum](https://planning.lacity.gov/odocument/923cfe89-a931-41c5-9ada-71c0ca9def52/684%20memo_final%20for%20re-sign_HP%20Update.pdf)

⁶ [City of Campbell Ordinance 2311 - Urgency Measures to Implement Senate Bill No. 684 \(2023\)](https://lflink.campbellca.gov/LFLINK/DocView.aspx?dbid=0&id=215653&repo=CityHall)

⁷ [City of Hayward Informational Page about SB 684](https://hayward-ca.gov/services/permits/small-lot-subdivisions-sb-684)

⁸ [City of Lafayette Informational Page about SB 684](https://www.lovelafayette.org/city-hall/city-departments/planning-building/do-i-need-a/sb-684)

SB 684 allows a city to adopt a local ordinance enabling ministerial approval of a housing development with up to 10 dwelling units, which may be subdivided ministerially into no more than 10 ownership units. For the Planning Commission’s consideration, *Attachment 2* is a model ordinance for SB 684 implementation, developed by Association of Bay Area Governments (ABAG). The SB 684 Model Ordinance includes provisions that must be included in any local implementation ordinance, and also a number of optional provisions a jurisdiction may choose to incorporate. Table 1, below, includes all of the required elements of any local ordinance.

Table 1. Required State Law Elements, as Included in ABAG Model Ordinance

Model Ordinance Section	Content
Purpose / Authority / CEQA Findings (Sections 1-3)	<ul style="list-style-type: none"> • Notes that the chapter implements Gov. Code Sections 65852.28, 65913.4.5, and 66499.41. • Affirms ministerial approval of qualifying subdivisions and projects. • Notes that the ordinance is not a “project” under CEQA, and is therefore exempt from CEQA.
Definitions (Section 4)	Includes statutory terms that appear later in the bill.
Small-Lot Subdivision – Ministerial Review (Section 5)	Requires the Planning Director to approve a parcel or tentative/final map within 60 days if all qualifying criteria are met, with no public hearing.
Qualifying Criteria (Section 5)	<p>A project qualifies only if all of the following are satisfied:</p> <ul style="list-style-type: none"> • Parcel location/size – Urban multifamily zone on parcels less than 5 acres or vacant single-family zone parcels less than 1.5 acres. • Max scope – fewer than 10 parcels and fewer than 10 primary units. • Minimum lot size – 600 square feet (multifamily) or 1,200 square feet (vacant single-family). • Legal parcel, not previously split under SB 684 or SB 9. • Surrounded by qualified urban uses. • Density floor – If listed in Housing Element, must meet projected units; if not listed, must achieve at least 66 % of maximum zoning density (or of Gov. Code § 65583.2(c)(3)(B), which is 30 dwelling units per acre statewide default applicable to Berkeley). • Average new unit size must be less than 1,750 net habitable square feet.

Model Ordinance Section	Content
	<ul style="list-style-type: none"> • Tenant / Rent-controlled protections – no demolition or alteration of protected or recently occupied units; no Ellis-Act withdrawals within 15 years. • Exclusion areas – may not be farmland, wetlands, VHFHSZ (unless standards met), hazardous-waste sites, fault zones, floodways, etc. • Utilities – parcels must be served by public water and municipal sewer. • Title restriction – subdivision may not leave any existing dwelling on a separate title from another existing dwelling. • Objective-standards clause – only objective zoning/subdivision/design standards may be imposed; no minimum frontage/lot dimensions beyond those above; no mandatory HOA formation.
Housing Development of Small Lot Subdivisions (Section 6)	<ul style="list-style-type: none"> • Ministerial approval within 60 days. • Setbacks – 4 ft side/rear from original lot line; no interior setbacks. • Height – no new limit lower than base zoning for vacant single-family parcels. • Parking – maximum 1 space per unit; zero spaces if within half-mile walk of a major transit stop/High Quality Transit Corridor. • FAR caps – 1.0 (3–7 units) and 1.25 (8–10 units). • Waiver clause – City must waive/modify any standard that would physically preclude achieving the statutory density (at least the ten-unit project).
Specific Adverse Impact Test (Section 7)	Project or subdivision may only be denied if the City makes a written finding of a specific, quantifiable, unavoidable public-health-or-safety impact with no feasible mitigation.
Severability & Effective Date (Sections 8-9)	<ul style="list-style-type: none"> • Standard severability clause. • Ordinance takes effect 30 days after adoption

Optional Provisions for a Local SB 684 / SB 1123 Ordinance

State law allows a jurisdiction to include additional optional provisions. These are summarized in Table 2, below. All come from the “Recommended” or “POLICY” notes in the ABAG Model Ordinance and may be adopted, modified, or omitted at the city’s discretion.

Table 2. Optional State Law Elements, as Included in ABAG Model Ordinance

Model Ordinance Section	Optional provisions
Definitions	Decide whether to define income tiers (“extremely-,” “very-,” “low-,” “moderate-income household”) and use them in local inclusionary or fee programs.
Qualifying Criteria (Subdivision)	<ul style="list-style-type: none"> • ADU/JADU treatment. <ul style="list-style-type: none"> ○ Exclude ADUs/JADUs from the 10-unit cap, and/or ○ Prohibit future ADUs/JADUs on new lots. • Mandatory build-out — Require at least one primary dwelling on every new lot (“Development on Each Lot”). • Urban Lot Split ban — Prohibit subsequent § 66411.7 urban-lot-split maps on parcels created under SB 684. • Tenant-history affidavit — Require a signed declaration of prior tenancies and proof of no recent displacement. • If any existing dwelling unit is proposed to be demolished, require compliance with the replacement housing provisions of Government Code Section 66300.
Housing Development on Small-Lot Subdivisions	<ul style="list-style-type: none"> • Density requirement for waivers. Choose the required density that forces staff to waive standards that would physically preclude the project. • FAR maximums — Keep the template (1.0 for 3-7 units, 1.25 for 8-10) or set different ratios.
Building-Permit Stage	<ul style="list-style-type: none"> • Recorded covenant — Require proof that the final map will record before any certificate of occupancy is issued. • Performance security — Set a bond/letter-of-credit requirement (up to 300 % of improvement cost) to guarantee subdivision conditions.
Enforcement (multiple sections)	Add or tailor civil-action tools for ordinance violations and covenant breaches.

Lot Design Standards - Reference Model Los Angeles Small-Lot Subdivision Ordinance

Los Angeles’ Small-Lot Subdivision Ordinance includes Small Lot Design Standards (SLDS) review, which reduces the minimum lot size to 600 square feet and minimum lot width to 16 feet, allows zero interior side-yard setbacks between homes within a project, and requires common-access easements, clearly defined pedestrian pathways, and recorded maintenance agreements. It also applies 5-foot perimeter setbacks for roof decks and limits driveway widths to preserve streetscape character.

Because Los Angeles’ Small-Lot Subdivision process predates SB 684, some of these standards are not permitted under SB 684, while others are allowed, provided they are objective. For example, the 16-foot minimum frontage is not allowed because SB 684 bars minimum width/frontage requirements. Table 3, below, provides an overview of these standards, and the full checklist is available on the Los Angeles City Planning webpage.⁹

Table 3. Los Angeles Planning Small-Lot Subdivision Standards, Summary

Potential Standard	Permitted under SB 684 / SB 1123
Minimum parcel area of 600 square feet	Yes. Statute sets this as the floor for multifamily-zoned sites (1,200 square feet for vacant single-family lots). Cities may adopt smaller lot size requirements (cities may allow smaller parcels but cannot require larger ones).
Zero interior setbacks between buildings on new lots	Yes. Cities may not require greater interior setbacks.
Minimum parcel frontage (lot width)	No. Gov. Code 66499.41(b)(1) specifies that a qualifying project “is not required to comply with any minimum requirement on the size, width, depth, or frontage of an individual parcel beyond the minimum parcel size.”
Pedestrian pathway from street	Yes. This is a site-planning feature, not a parcel-dimension rule.
Single shared driveway / max one curb cut	Yes. Access design standards are allowed if objective.
Recorded maintenance covenants	Yes. Cities may require objective long-term maintenance provisions.
Façade articulation, roof modulation, open-space ratios, tree planting, etc.	Yes, provided the standards are objective and do not physically preclude achieving the required density (Gov. Code 65852.28(b)(2)).

⁹ [Los Angeles City Planning Small Lot Design Standards](https://planning.lacity.gov/odocument/01d4a580-f174-4a97-b144-9b3c98616ddf/SmallLotDesignStandards.pdf)
<https://planning.lacity.gov/odocument/01d4a580-f174-4a97-b144-9b3c98616ddf/SmallLotDesignStandards.pdf>

Policy Questions

The Planning Commission is asked to consider the optional provisions discussed above, including state-law references and possible Lot-Design Standards, and provide direction on each.

Optional Provisions for a Local SB 684 / SB 1123 Ordinance

Income-Tier Definitions

- Should the ordinance add local definitions for "Lower-Income Household" and "Very Low Income Household"?

Future ADUs/JADUs on New Lots

- Should the ordinance prohibit new ADUs or JADUs on parcels created through SB 684?

Mandatory Build-Out

- Should each and every newly created lot be required to contain or build at least one primary dwelling unit?

Subsequent Urban Lot Split Prohibition

- Should parcels created under SB 684 be barred from subsequent SB 9 lot splits?

Tenant-History Affidavit

- Should applicants be required to submit a declaration of prior tenancies and certify no recent displacement?

Density Threshold for Waiving Standards

- What minimum density (e.g., 30 du/ac) should trigger the waiver of local standards that would physically preclude development?

Floor-Area-Ratio (FAR) Caps

- Should the default FAR limits (1.0 for 3-7 units; 1.25 for 8-10 units) be retained or adjusted?

Recorded Covenant Before C of O

- Should proof of final-map recordation be required before a certificate of occupancy is issued?

Performance Security

- Should applicants post a bond or letter of credit (up to 300 % of improvement costs) to guarantee subdivision conditions?

Enforcement Tools

- Should the City add or customize civil-action remedies for violations of the SB 684 ordinance and related covenants?

Small-Lot Design Standards

BMC Title 21 currently contains only general design criteria (street frontage, lot depth, improvement standards) written for conventional subdivisions. Berkeley lacks objective standards tailored to the very small parcels that SB 684 will enable. Staff seeks direction on whether to draft Berkeley-specific small-lot design standards—for example:

- Minimum parcel size or width beyond the statutory 600 sq ft floor
- Perimeter setbacks, building separation, and height transitions to adjacent lots.
- Requirements for shared driveways, pedestrian access, and utility easements.
- Private versus common open-space ratios.
- Recorded maintenance or homeowners-association provisions for shared elements.

Should staff return with draft objective design standards for inclusion in the local SB 684 ordinance, or rely on the baseline statutory criteria alone? Feedback will guide the next ordinance draft.

ENVIRONMENTAL REVIEW

There are no identifiable environmental effects or opportunities associated with this informational report.

NEXT STEPS

Staff would be drafting a local SB 684/SB 1123 ordinance that integrates the new ministerial subdivision provisions into BMC Title 21, cross-references Berkeley's Demolition and Dwelling-Unit Protections (BMC 23.326), and identifies any optional, objective small-lot design standards for Commission consideration.

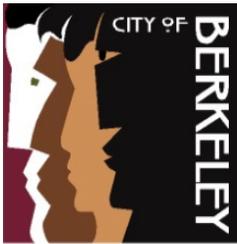
With the Planning Commission's feedback tonight, staff will work on preparing a complete ordinance package, circulate it for inter-departmental and public review, and return for a noticed public hearing and with recommendation. Following Commission action, staff would move forward with the required steps for final adoption of any BMC amendments by the City Council.

CONTACT PERSON

Branka Tatarevic, Planning and Development Department, 510-981-7472

ATTACHMENTS

1. Referral to Implement SB 684
2. ABAG SB 684 Implementation Model Ordinance
3. City of Los Angeles Small Lot Design Standards



Councilmember Rashi Kesarwani

CONSENT CALENDAR

January 21, 2025

TO: Honorable Mayor Adena Ishii and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author)

SUBJECT: Expanding Homeownership Opportunities for Middle-Income Earners

RECOMMENDATION

Refer to the City Manager to develop modifications to Berkeley Municipal Code Title 21 (Subdivisions) and refer to the City Manager and Planning Commission to develop modifications to Title 23 (Zoning) to enhance ownership opportunities for middle housing—in alignment with unanimous Council direction for a Middle Housing Ordinance and allowances under Chapter 783, Statutes of 2023 (S.B. 684, Caballero).

CURRENT SITUATION AND ITS EFFECTS

High Housing Costs Are Harming Berkeley's Middle Income Earners Like Nurses, Firefighters, and Teachers. The nine-county Bay Area region is facing an acute shortage of homes affordable for working families, reflecting the broader statewide shortage of 3.5 million homes across California.¹ In the Bay Area, only one new home is added for every 3.5 jobs created, exacerbating the housing shortage.² In Berkeley, the median sale price of a home is \$1.4 million, a figure that places immense strain on low-, moderate-, and middle-income households. As a result, California has the second-lowest homeownership rate in the nation, reflecting the growing affordability gap.³ The Bay Area is among the most expensive housing

¹ Woetzel, J., Mischke, J., Peloquin, S., and Weisfield, D. (2016, October). A Toolkit to Close California's Housing Gap: 3.5 Million Homes by 2025. McKinsey Global Institute, <https://www.mckinsey.com/featured-insights/urbanization/closing-californias-housing-gap>

² Metropolitan Transportation Commission. (2018). Vital Signs. <http://www.vitalsigns.mtc.ca.gov/>

³ iProperty Management. (2022, October). Home Ownership Rates By State. <https://ipropertymanagement.com/research/homeownership-rate-by-state>

markets in the U.S., with prices roughly 2.5 to 3.5 times higher than the national median. For a Bay Area family to afford the principal, interest, taxes, and insurance payments on a median-priced home of \$1.4 million, they would need to earn more than \$300,000 annually, assuming they can make a 20 percent down payment.⁴ This cost barrier means that many public employees, including nurses, firefighters, and teachers, cannot afford to buy homes. While the Berkeley Unified School District is planning to develop more than 100 units of teacher housing, the demand still outpaces the supply. According to a 2017 Berkeley Unified School District (BUSD) survey, 69 percent of teachers and staff believed that high housing costs would impact their ability to remain in their BUSD positions.⁵ Since most teachers are not classified as low-income, they do not qualify for affordable housing units. With few subsidies available, middle-income families often must rely on the private market for housing in the Bay Area, further deepening the affordability crisis.

Middle Housing Ownership Options Can Give Middle Income Earners the Opportunity to Stay in Berkeley and Build Wealth. Many Americans, particularly middle income and younger households, are increasingly seeking smaller, more affordable, and diverse homeownership options as single family home prices continue to rise.⁶ Middle housing options—including duplexes, triplexes, and fourplexes—can provide a more attainable entry point to homeownership for middle- and lower-income families in Berkeley. According to the U.S. Census American Community Survey, median household income for middle housing types was much lower than for single-family homes, as shown in Exhibit 1.⁷ This pattern suggests that smaller multifamily housing can offer more affordable options for a wider range of income levels. The data underscore the potential of middle housing to provide affordable homeownership opportunities, helping middle-income families stay in Berkeley and build wealth in a challenging housing market.

⁴ Prakash, Anushka. (2024, February). Home Buyers Need to Earn \$47,000 More Than in 2020. Zillow. <https://www.zillow.com/research/buyers-income-needed-33755/>

⁵ Berkeley Unified School District. (2017). Board of Education Approves Berkeley Adult School Parking Lot as Site for Educator Housing. <https://www.berkeleyschools.net/2021/02/board-of-education-approves-berkeley-adult-school-parking-lot-as-site-for-educator-housing/>

⁶ Harvard's Joint Center for Housing Studies. (2021). The State of the Nation's Housing. https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_State_Nations_Housing_2021.pdf

⁷ American Community Survey. (2017-2022). Public Use Microdata Set. US Census.

Exhibit 1: Median Household Income for Middle Housing Types is Significantly Lower than Median Household Income for Single-Family Homes

Median Income in Housing By Year Built & Density: Berkeley & Albany 2017 - 2022 ACS Microdata					
	Pre-1950	1950-1969	1970-1989	1990-2009	2010-
Single-family detached	\$189,258.43	\$165,280.91	\$120,095.89	\$216,669.57	\$225,410.84
Single-family attached	\$134,389.27	\$186,637.84	\$153,046.07	\$104,387.94	\$190,075.78
2-4 units	\$119,151.43	\$67,601.07	\$61,408.32	\$54,760.54	\$46,795.45
5-19 units	\$54,080.86	\$57,614.32	\$56,837.16	\$69,186.01	\$33,510.30
20-49 units	\$35,140.16	\$52,419.21	\$43,777.06	\$35,566.36	\$48,179.16
50+ units	\$49,070.72	\$32,495.92	\$76,961.53	\$34,113.76	\$75,567.55

Source: American Community Survey, 2017-2022, as analyzed by Darrell Owens

BACKGROUND

Senate Bill 684 Creates Opportunity to Enhance Ownership Options for Middle-Income Earners. . . . In 2023, the California State Legislature passed Senate Bill 684 (Caballero) to address the shortage of homeownership opportunities across the state.⁸ This bill mandates that local agencies review, in a ministerial (non-discretionary) manner, parcel maps or tentative and final maps for housing development projects that meet specific criteria.⁹

Key site and project criteria of SB 684 include:

- The subdivision results in 10 or fewer parcels.
- The development includes no more than 10 residential units.
- The area is zoned for multi-family development and is less than five acres.
- The project was not created under the ministerial subdivision authority in Senate Bill 9 (Cal. Gov. Code Sec. 66411.7).
- The subdivision must not create new lots smaller than 600 square feet, unless the local agency has approved smaller minimum parcel sizes.
- The resulting housing will be simple ownership lots, part of a common interest development or cooperative or owned by a community land trust.
- The housing development must meet specific affordability criteria, providing either the projected number of low- or very-low-income units for the parcel, or if not listed in the Housing Element, must comply with the maximum allowable residential density.

⁸ Caballero, Anna. (2024). Senate Bill 684.

https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB684

⁹ Sarjapur, Melinda. (2024). SB 684—How to Apply New State Law Allowing Ministerial Approval for up to 10-Lot Subdivisions on Small Lots

<https://static1.squarespace.com/static/5f2c2d67c58236227115e0de/t/66a3d0be22486b760b9eb302/1722011839196/Casita-Coalition-Reuben-Junius-Rose-SB-684-final-memo-0725204.pdf>

- The average total floor area cannot exceed 1,750 net habitable square feet.

Projects must comply with objective zoning, design and subdivision criteria that do not conflict with SB 684. Additionally, a local agency may not apply certain standards, such as:

- Density standards that would prohibit low-income housing.
- Minimum lot size requirements, beyond the 600 square foot minimum.
- Additional setbacks between the units, beyond those required by the Building Code.
- Enclosed or covered parking
- Side and rear setbacks greater than those allowable under Senate Bill 9 (four feet for new structures)
- Floor Area Ratio (“FAR”) limits that are less than the following:
 - For 3 to 7 units, a FAR that is less than 1.0
 - For 8 to 10 units, a FAR that is less than 1.25

... Requiring Berkeley to Amend the Municipal Code to Enhance Availability of SB 684 Ownership Options, Given Council Direction for a Middle Housing Ordinance.

In a 2022 study, the Turner Center published research that indicated that lack of clarity around subdivision is a driving force for developers abandoning ownership models in favor of more predictable and less-risky rental development.¹⁰ To address the Bay Area’s housing crisis and promote more affordable ownership opportunities, amendments to the Berkeley Municipal Code are needed to allow for the development of middle housing ownership opportunities through subdivision of parcels. By creating more diverse housing options, Berkeley can attract and retain a diverse workforce, lower housing costs, and increase affordability for a wider range of residents.

RATIONALE FOR RECOMMENDATION

Amending the Berkeley Municipal Code to align with unanimous Council direction for a Middle Housing Ordinance and Senate Bill 684 is essential to addressing the city’s acute housing affordability crisis. Berkeley’s current median home price of \$1.4 million creates insurmountable barriers for middle-income families who are critical to the community’s functioning. Senate Bill 684 offers a framework to streamline the approval of small-scale housing developments, ensuring affordability while expanding ownership opportunities. By modifying Title 21 and potentially Title 23 to enable greater middle housing ownership options, Berkeley can expand entry-level homeownership opportunities for middle-income earners. These changes will support a more equitable housing market, foster a diverse workforce, and align with Berkeley’s broader goals of sustainable and inclusive growth.

¹⁰ Garcia, Alameldin, Metcalf, and Fulton. (2022, December). Unlocking the Potential of Missing Middle Housing. UC Berkeley Turner Center for Housing Innovation. <https://turnercenter.berkeley.edu/wp-content/uploads/2022/12/Missing-Middle-Brief-December-2022.pdf>

FISCAL IMPACTS

Staff time to amend various sections of the Berkeley Municipal Code.

ENVIRONMENTAL SUSTAINABILITY

Creating denser, smaller-scale housing options maximizes land use efficiency, reduces the need for long commutes, and promotes walkable, transit-oriented neighborhoods. This can significantly lower greenhouse gas emissions by reducing reliance on cars and encouraging more energy-efficient housing designs. Additionally, utilizing existing infrastructure for compact development minimizes environmental impacts associated with new construction on undeveloped land, preserving green space and biodiversity.

CONTACT PERSON

Councilmember Rashi Kesarwani

(510) 981-8100

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DISCLAIMER: This document is intended solely as a technical overview of SB 684 (2023), as amended by SB 1123 (2024). It is not legal advice regarding any jurisdiction's specific policies or any proposed subdivision or housing development project. Local staff should consult with their city attorney or county counsel when determining the applicability and form of these provisions.

SB 684 Model Ordinance

NOTE: Unless otherwise noted, provisions in this document reflect the required provisions in SB 684, as amended by SB 1123. “Recommended” provisions are suggestions to clarify ambiguities in the statute, assist in enforcement, or are optional in SB 684 as amended by SB 1123, but recommended depending on the local agency’s policy decisions. “Policy” provisions are optional provisions in the statute for local agencies to consider. A [Template Application Review Checklist](#) is provided to accompany this model ordinance.

This model ordinance has been updated to reflect the updates made to SB 684 by SB 1123 (2024). SB 1123 becomes operational on July 1, 2025.

ORDINANCE NO. _____

AN ORDINANCE OF THE [CITY/COUNTY] OF [XX] AMENDING THE MUNICIPAL CODE TO UPDATE THE CITY'S DENSITY BONUS ORDINANCE TO REFLECT CHANGES MADE IN STATE LAW.

WHEREAS, on October 11, 2023, Senate Bill 684 (Chapter 783, Statutes of 2023) was approved by the Governor of the State of California and filed with the Secretary of State, adding to the Government Code Sections 65852.28, 65913.4.5, and 66499.41, allowing ministerial approval of a subdivision of 10 or fewer parcels and 10 or fewer residential units that meet specified requirements, effective July 1, 2024; and

WHEREAS, the California legislature subsequently enacted Senate Bill 1123 (Chapter 294, Statutes of 2024), signed by the Governor of the State of California on September 19, 2024 and filed with the Secretary of State, which amends Government Code Sections 65852.28 and 66499.41 to, among other things, expand the ministerial approval process to certain vacant single-family zoned lots and make clarifying changes to the provisions enacted by SB 684, with such amendments becoming operative on July 1, 2025; and

WHEREAS, state law allows a local agency to adopt an ordinance to implement the provisions in Senate Bill 684 as subsequently amended by Senate Bill 1123; and

WHEREAS, the [City/County of _____ (the “City”/the “County”)] has implemented land use policies based on the [City/County]’s General Plan, which provide an overall vision for the community and balance important community needs, and the [City/County] seeks to ensure

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that Senate Bill 684, as amended by Senate Bill 1123, projects are consistent with those policies; and

WHEREAS, the proposed amendments to the [City of _____ Municipal Code/County of _____ County Code] implement requirements of state law and add local policies that are consistent with the state law and implement the [City/County]'s General Plan; and

WHEREAS, the Planning Commission of the [City/County of ____] held a duly and properly noticed public hearing on [date], to take public testimony and recommended the [City Council/Board of Supervisors] adopt the proposed ordinance; and

WHEREAS, the [City Council/Board of Supervisors] has found that the provisions of this ordinance are consistent with the goals and policies of the [City/County]'s General Plan; and

WHEREAS, the proposed code amendments are intended to implement Senate Bill 684 and Senate Bill 1123 and are not considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code, as provided in Government Code Sections 65852.28(e), 65913.4.5(b), and 66499.41(i).

NOW, THEREFORE, THE [CITY COUNCIL OF THE CITY OF XX/BOARD OF SUPERVISORS OF THE COUNTY OF XX] DOES ORDAIN AS FOLLOWS:

SECTION 1. Purpose. The purpose of this chapter is to provide objective zoning standards for small lot subdivisions with 10 or fewer units , to implement the provisions of state law as reflected in Government Code Section 65852.28, Section 65913.4.5, and Section 66499.41, and to facilitate the development of new residential housing units consistent with the [City/County]'s General Plan and ensure sound standards of public health and safety.

SECTION 2. CEQA Findings. The proposed [Municipal/County Code] amendment has been reviewed with respect to the applicability of the California Environmental Quality Act (Public Resources Code Section 21000 *et seq*) ("CEQA"). The [City Council/Board of Directors] has determined that the text amendment in this ordinance is not a project under CEQA pursuant to Government Code Sections 65852.28(e), 659.13.4.5(b), and 66499.41(i) and thus is not subject to further environmental review under CEQA.

SECTION 3. Authority. The [City Council/Board of Supervisors] enacts this ordinance under the authority granted to cities by Article XI, Section 7 of the California Constitution and Government Code Sections 65852.28, 65913.4.5, and 66499.41.

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SECTION 4. Definitions.

- A. **[Recommended provision]** “Extremely low-income household” has the meaning set forth in Health & Safety Code Section 50106.
- B. **[Recommended provision]** “Lower-income household” has the meaning set forth in Health & Safety Code Section 50079.5.
- C. **[Recommended provision]** “Moderate income household” has the meaning set forth in Health & Safety Code Section 50093.
- D. “Net habitable square feet” has the meaning set forth in Government Code Section 66499.41(a)(6).
- E. “Qualified urban use” has the meaning set forth in Public Resources Code Section 21072.
- F. “Substantially surrounded” has the meaning set forth in Public Resources Code Section 21159.25.
- G. “Vacant” has the meaning set forth in Government Code Section 66499.41(a)(2)(A)(ii).
- H. **[Recommended provision]** “Very low-income household” has the meaning set forth in Health & Safety Code Section 50105.

SECTION 5. Small Lot Subdivision.

- A. The **[Director]** shall ministerially review, without a hearing, an application for a parcel map or a tentative and final map for a housing development project, and shall approve the application if the criteria in Government Code Section 66499.41 and this section are satisfied.
- B. **Qualifying Criteria.** Within 60 days from the receipt of a complete application, the **[Director]** shall determine if the parcel map or tentative and final map for the subdivision meets all the following requirements:
 - 1. The parcel is one of the following:
 - a. Located within one of the following multi-family residential zones: **[list of applicable zones]**; or
 - b. Vacant and located within one of the following single-family residential zones: **[list of applicable zones]**.
 - 2. The proposed subdivision will result in 10 or fewer parcels and the housing development project on the lot proposed to be subdivided will contain 10 or

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fewer residential units [include this provision if electing to allow ADUs/JADUs on parcels created by this statute – “not including any permitted accessory dwelling units or junior accessory dwelling units”].

3. The lot is substantially surrounded by qualified urban uses and meets the following maximum lot area requirements:
 - a. No larger than five acres, if the lot is zoned for multi-family residential; or
 - b. No larger than one and one-half acres, if zoned for single-family residential.
4. The lot is a legal parcel.¹
5. The lot was not established pursuant to this Section [identify municipal/county code this is in] or an urban lot split pursuant to Government Code Section 66411.7 and Section [include municipal/county code section if it exists].
6. The newly created parcels meet the following minimum lot area requirements²:
 - a. No smaller than 600 square feet if zoned for multi-family residential; or
 - b. No smaller than 1,200 square feet if zoned for single-family residential.
7. The housing units on the lot proposed to be subdivided are one of the following:
 - a. Constructed on fee simple ownership lots;
 - b. Part of a common interest development;
 - c. Part of a housing cooperative, as defined in Civil Code Section 817;
 - d. Constructed on land owned by a community land trust meeting the requirements of Government Code Section 66499.41; or
 - e. Part of a tenancy in common, as described in Civil Code Section 685.

¹ Note this section only applies if the parcel is located in an incorporated city, the boundaries of which include some portion of an urbanized area, or an urbanized area/urban cluster in a county with a population greater than 600,000 based on the most recent US Census Bureau data. See Government Code Section 66499.41 for definition of Urbanized Area and Urban Cluster.

² Local agencies may allow for a smaller minimum parcel size if they desire.

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8. The proposed development must meet one of the following³:
 - a. If the parcel is identified in the Housing Element for the current planning period, the development must result in at least as many units as projected for the parcel in the Housing Element. If the parcel is identified to accommodate low- or very-low income households, the development must result in at least as many low- or very-low income units as projected in the Housing Element. These units shall be subject to a recorded affordability restriction of at least 45 years.
 - b. If the parcel is not identified in the Housing Element for the current planning period, the development must result in 66 percent of the maximum allowable residential density specified in the zoning district in which the parcel is located or 66 percent of the applicable residential density specified in Government Code Section 65583.2(c)(3)(B), whichever is greater. If the zoning district in which the parcel is located does not specify a maximum allowable density, then the development must result in 66 percent of the applicable residential density specified in Government Code Section 65583.2(c)(3)(B).
9. The average total area of floorspace for the proposed housing units on the lot proposed to be subdivided does not exceed 1,750 net habitable square feet.
10. The housing development project on the lot proposed to be subdivided complies with Section [include section where city/county inclusionary zoning ordinance is located. If city/county does not have an inclusionary zoning ordinance, remove this subsection].
11. The housing development project on the lot proposed to be subdivided would not require demolition or alteration of any of the following types of housing:
 - a. Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low-, very low-, or extremely low-income.
 - b. Housing that is subject to any form of rent or price control through a public entity's valid exercise of its police power.

³ Note that the statute requires the housing element to be in substantial compliance with Housing Element law. This ordinance assumes the Housing Element is substantially compliant and does not add this qualifier in the ordinance.

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- c. Housing occupied by tenants within the five years preceding the date of the application, including housing that has been demolished or that tenants have vacated prior to the submission of the application for a development permit.
 - d. A parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 of the Government Code to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.
12. The lot being subdivided is not located on a site that is any of the following:
- a. Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.
 - b. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
 - c. Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 of the Government Code, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.
 - d. A hazardous waste site that is listed pursuant to Section 65962.5 of the Government Code or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to former Section 25356 of the Health and Safety Code, unless the State Department of Public Health, State Water Resources Control Board, or Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.
 - e. Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building

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code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by the building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2 of the Government Code.

- f. Within a special flood hazard area subject to inundation by the 1-percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph, the [city/county] shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the [city/county] that is applicable to that site. A development may be located on a site described in this subparagraph if either of the following are met: (1) the site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the [city/county]; or (2) the site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.
- g. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, the [city/county] shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by the [city/county] that is applicable to that site.

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- h. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.
 - i. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
 - j. Lands under conservation easement.
13. The proposed subdivision shall conform to all applicable objective requirements of the Subdivision Map Act (commencing with Government Code Section 66410), except as otherwise expressly provided in this chapter and Government Code Section 66499.41.
14. The proposed subdivision complies with all applicable standards established in Section [list code section for housing development below] and Government Code Section 65852.28.
15. The parcels created pursuant to this Section must be served by a public water system and a municipal sewer system.
16. The proposed subdivision will not result in any existing dwelling unit being alienable separate from the title to any other existing dwelling unit on the lot.
17. The development proposed on the parcels complies with all objective zoning standards, objective subdivision standards, and objective design review standards applicable to the parcel as provided in the zoning district in which the parcel is located,⁴ except that a proposed housing development is not required to comply with either a minimum requirement on size, width, depth, frontage, or

⁴ Local agencies may wish to specify which ordinance(s) or code section(s) designate these objective standards.

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dimensions of an individual parcel beyond the minimum parcel size specified in Section 6 [above] or the formation of a homeowners' association, except as required by the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).

18. [Recommended provision] If any existing dwelling unit is proposed to be demolished, the applicant will comply with the replacement housing provisions of Government Code Section 66300(d).

[POLICY CONSIDERATIONS: The following are included in the statute as things the local agency may do, but is not required to do. These provisions could be added in the text, above, in a new section located after Section B.]

- C. [A local agency should consider whether it wants to require development of housing on each of the lots created pursuant to this statute. If yes, suggest the following be added:]
“**Development on Each Lot.** At least one residential structure in compliance with applicable provisions of the California Building Standards Code [or including municipal/county code section] must be developed on each resulting parcel that does not already contain an existing legally permitted residential structure or is reserved for internal circulation, open space, or common area.”
- D. [A local agency should consider whether it wants to allow accessory dwelling units (ADU) and/or junior accessory dwelling units (JADU) on the parcels created by this statute. If no, the following text should be added:]
“**Prohibition of Accessory Dwelling and Junior Accessory Dwelling Units.** An accessory dwelling unit or junior accessory dwelling unit shall not be permitted on a parcel created through this chapter.”
- E. [Local agency should consider whether it wants to allow further subdivision by an Urban Lot Split. If it does not, the following text should be added:]
“**Prohibition of Urban Lot Splits.** A parcel created under this chapter may not be further subdivided pursuant to an urban lot split under Section [municipal/county code for Urban Lot Splits] or Government Code Section 66411.7.”
- F. [Recommended provision] **Declaration of Prior Tenancies.** If any existing housing is proposed to be demolished, the owner of the property proposed for the subdivision shall sign an affidavit, in the form approved by the [Director/city attorney/county counsel], stating that none of the conditions listed in Section 11 above exist and shall provide a comprehensive history of the occupancy of the units to be altered or demolished for the past five years on a form approved by the [Director].

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- G. Specific Adverse Impacts.** In addition to the criteria listed in this section, a subdivision proposed under this chapter may be denied if the [Director] makes a written finding, based on a preponderance of the evidence, that the proposed subdivision or proposed housing development project would have a specific, adverse impact upon public health and safety, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. A “specific adverse impact” is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation and eligibility to claim a welfare exemption are not specific health or safety impacts.
- H. [Recommended provision⁵] Enforcement.** The [city attorney/county counsel] shall be authorized to abate violations of this chapter and to enforce the provisions of this chapter and all implementing agreements and affidavits by civil action, injunctive relief, and any other proceeding or method permitted by law. Remedies provided for in this chapter shall not preclude the [City/County] from any other remedy or relief to which it otherwise would be entitled under law or equity.

SECTION 6. Housing Development of Small Lot Subdivisions.

- A.** The [Director] shall ministerially review, without a hearing, an application for a housing development project on a lot that is subdivided pursuant to Section [municipal/county code section for small lot subdivision above] and Government Code Section 66499.41, and shall approve the application if the criteria in Government Code Section 65852.28 and this section are satisfied.
- B. Qualifying Criteria.** Within 60 days from the receipt of a complete application, the [Director] shall determine if the housing development project meets all the following requirements:
1. The proposed housing development is on a lot created in accordance with Section [municipal/county code section above for subdivision] and Government Code Section 66499.41.
 2. The proposed housing development complies with all objective zoning standards, objective subdivision standards, and objective design review

⁵ An enforcement mechanism is recommended. Sample language is provided if it is needed, however, this could be omitted if there is a global enforcement mechanism in the zoning code, or a citation to where enforcement is provided.

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standards applicable to the parcel as provided in the zoning district in which the parcel is located⁶ that do not conflict with Section [municipal/county code section above for subdivision] and Government Code Sections 65852.28 and 66499.41; provided, however:

- a. The [Director], or their designee, shall modify or waive any standard if the standard would have the effect of physically precluding the construction of the development project at [10/15/20/30]⁷ dwelling units per acre⁸. Any modifications of development standards shall be the minimum modification necessary.
 - b. No setback between the units is required, except as provided in the California Building Code (Title 24 of the California Code of Regulations).
 - c. Required rear and side yard setbacks from the original lot line shall equal four feet, except that no setback shall be required for an existing legally created structure or a structure constructed in the same location and to the same dimensions as an existing legally created structure.
 - d. For development on a vacant lot zoned for single-family residences, no height limit may be applied that is less than what is allowed per the existing zoning designation applicable to the lot.
3. **Parking.** One parking space,⁹ which may be uncovered or not enclosed, shall be required per unit constructed on a parcel created pursuant to the procedures in this section, except that no parking may be required where the parcel is located within one-half mile walking distance of either a stop located in a high-quality

⁶ Local agencies may wish to specify which ordinance(s) or code section(s) designate these objective standards.

⁷ Housing should be allowed at densities specified in Government Code Section 65583.2: 10 dwelling units per acre for an unincorporated area in a nonmetropolitan county; 15 dwelling units per acre for both an incorporated city in a nonmetropolitan county and a micropolitan area in an unincorporated nonmetropolitan county; 20 dwelling units per acre for a suburban jurisdiction; 30 dwelling units per acre for a jurisdiction in a metropolitan county.

⁸ Local agency may adopt a greater density; if a greater density is applicable, this paragraph should be modified.

⁹ Agencies may reduce parking standards if desired.

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transit corridor, as defined in Public Resources Code Section 21155(b), or a major transit stop, as defined in Public Resources Code Section 21064.3.

4. **Floor Area Ratio Standards.** The following floor area ratios shall apply¹⁰:

- a. For a housing development project consisting of three to seven units, inclusive, the floor area ratio is 1.0.
- b. For a housing development project consisting of eight to 10 units, inclusive, the floor area ratio is 1.25.

C. Specific Adverse Impacts. In addition to the criteria listed in this section, a proposed housing development may be denied if the building official makes a written finding, based on a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact upon public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. A “specific adverse impact” is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation and eligibility to claim a welfare exemption are not specific health or safety impacts.

D. [Recommended provision¹¹] Enforcement. The [city attorney/county counsel] shall be authorized to abate violations of this chapter and to enforce the provisions of this chapter and all implementing agreements and affidavits by civil action, injunctive relief, and any other proceeding or method permitted by law. Remedies provided for in this chapter shall not preclude the [city/county] from any other remedy or relief to which it otherwise would be entitled under law or equity.

SECTION 7. Building Permits for Housing Development of Small Lot Subdivisions

A. The [Building Official] shall issue a building permit for one or more residential units that are part of a housing development project on a lot that is subdivided pursuant to Section [municipal/county code section for small lot subdivision above] and Government Code Section 66499.41, and shall approve the application if the criteria in

¹⁰ These FARs are minimums. Local agency may provide greater FARs if desired.

¹¹ An enforcement mechanism is recommended. Sample language is provided if it is needed, however, this could be omitted if there is a global enforcement mechanism in the zoning code, or a citation to where enforcement is provided.

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Government Code Section 65852.28 and this section are satisfied and has met the following criteria:

1. The applicant has received a tentative map or parcel map approval for the subdivision.
 2. The applicant has submitted a complete building permit application.
- B.** Any dedication, improvement, and sewer requirements identified in the approved tentative map or parcel map or its conditions of approval shall be guaranteed to the [City/County]'s satisfaction.
- C.** [Recommended provision] The applicant must submit proof, to the satisfaction of the [Director/city attorney/county counsel], of a recorded covenant and agreement enforceable by the [city/county] that the applicant agrees the building permit is issued on condition that a certificate of occupancy or equivalent final approval for the building will not be issued unless the final map has been recorded.
- D.** [Recommended provision] The applicant shall provide security to ensure faithful performance of the requirements identified in the approved tentative or parcel map or its conditions of approval in the form of bonds, an instrument of credit from one or more financial institutions subject to regulation by the state or federal government and pledging that the sufficient funds necessary to carry out the act or agreement are on deposit and guaranteed for payment, or a letter of credit from such a financial institution. The amount of the security shall be [an amount not more than 300%] of the total estimated cost of improvements or acts to be performed.
- E. Specific Adverse Impacts.** In addition to the criteria listed in this section, issuance of a building permit may be denied if the Building Official makes a written finding, based on a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact upon public health and safety or the physical environment, for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. A "specific adverse impact" is a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation and eligibility to claim a welfare exemption are not specific health or safety impacts.

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F. **[Recommended provision¹²] Enforcement.** The [city attorney/county counsel] shall be authorized to abate violations of this chapter and to enforce the provisions of this chapter and all implementing agreements and affidavits by civil action, injunctive relief, and any other proceeding or method permitted by law. Remedies provided for in this chapter shall not preclude the [city/county] from any other remedy or relief to which it otherwise would be entitled under law or equity.

SECTION 8. Severability.¹³ If any section, subsection, paragraph, sentence, clause or phrase of the Ordinance, or its application to any person or circumstance, is for any reason held to be invalid and unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The [City Council/Board] declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable.

SECTION 9. Effective Date. This Ordinance shall take effect and be in force 30 days from and after its adoption. (*Note: If Coastal Commission approval is required, use following alternate language, "This Ordinance shall take effect upon approval of the California Coastal Commission."*)

¹² An enforcement mechanism is recommended. Sample language is provided if it is needed, however, this could be omitted if there is a global enforcement mechanism in the zoning code, or a citation to where enforcement is provided.

¹³ A severability section should be included; however, the city/county should use language consistent with what is normally included in their ordinances. Sample language is provided here if it is needed.

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INTRODUCED AND FIRST READ at a regular meeting of the [City Council of the City of XX/Board of Supervisors of the County of XX] held on the on the ____ day of _____, 202_; and thereafter **PASSED AND ADOPTED** at a regular meeting of the [City Council of the City of XX/Board of Supervisors of the County of XX], California, on the ____ day of _____, 202_, by the following vote:

- AYES: [Councilmembers/Supervisors] –
- NOES: [Councilmembers/Supervisors] –
- ABSENT: [Councilmembers/Supervisors] –

[Mayor/Chair]

ATTEST:

[NAME]
[CITY/COUNTY CLERK]

APPROVED AS TO FORM:

[NAME]
[CITY ATTORNEY/COUNTY COUNSEL]



Small Lot Design Standards

An Illustrated Guide for
Small Lot Design Standards

City of Los Angeles
Adopted March 22, 2018





Small Lot Design Standard

An Illustrated Guide for
Small Lot Design Standards

SMALL LOT DESIGN STANDARDS

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

OVERVIEW

INTRODUCTION

In 2005, the City of Los Angeles adopted the Small Lot Subdivision Ordinance (“Ordinance”) which introduced a new housing typology to the City. The new housing type, a small lot home, was enabled by the Ordinance’s subdivision regulations that permitted fee-simple homeownership of homes located on conventionally smaller lots and in zones where apartment units would be permitted by-right. Such permitting regulations included reduced minimum lot areas, setback and passageway requirements, and the altogether elimination of standardized open space and guest parking requirements. As a result, the Small Lot Subdivision Ordinance enabled new infill housing development, presented as a hybrid between single- and multi-family housing, that has been a smart growth alternative to traditional suburban style single-family subdivisions.

While the Ordinance created new homeownership opportunities to the traditional single-family or condominium, small lot projects faced challenges related to spatial planning and neighborhood compatibility. After over ten years of implementation of the Ordinance, and in response to Council motions, project appeals and ongoing community discussion, the Department of City Planning has updated the regulations and procedures for small lot subdivisions. The intent of the Update was to equip the City with the tools necessary to review and revise proposed small lot subdivisions with the overarching goal to improve a project’s compatibility with existing by-right zoning and neighborhood contexts.

The Update consisted of amending the Ordinance to: 1) recognize a clear set of map standards to be discretionarily administered to all small lot subdivision maps; 2) establish an administrative review process that permits an enforceable design review of individual small lot homes; 3) reduce previous incentives for newly constructed small lot homes by way of requiring greater setbacks and reducing maximum lot coverage; and 4) create a clear path to retain existing dwelling units and convert them small lot homes.

APPLYING THE DESIGN STANDARDS

Supplemental design standards have been created to assist in shaping this type of development with its unique complexities. All small lot subdivision projects are required to comply with the Small Lot Design Standards through an Administrative Clearance process. The application for the Administrative Clearance shall be filed concurrent with the tract or parcel map application and at any time a subsequent building permit is requested following the issuance of initial certificates of occupancy.

The term “Project” includes the erection or construction, reconstruction, rehabilitation, relocation, addition to, or exterior alteration of any building or structure, which require the issuance of a demolition permit, grading permit, or building permit. Projects include the preservation of existing structures in a single lot and the subdivision of land for Small Lot purposes. The term Project excludes work that consists solely of interior remodeling, interior rehabilitation or repair work that does not result in alterations to the façade or change in floor area. The following are examples of building permits that are generally exempt from administrative review:

SMALL LOT DESIGN STANDARDS

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

Exempt from Administrative Clearance:

- Re-roof with no alterations to the existing roof form, roof details, eave depth, eave details, or facades of the buildings;
- Maintenance, repair, and/or rehabilitation of existing foundations;
- In-ground swimming pool where permitted by the LAMC;
- Mechanical equipment;
- Roof-mounted solar modules; and
- Exterior lighting.

SMALL LOT DESIGN STANDARDS

The Design Standards create specific and enforceable rules regarding the design for all small lots, including building orientation, primary entryways, façade articulation, roofline variation, building modulation, pedestrian pathways, landscaping, and common open space areas.

This document consists of two parts: the Small Lot Design Standards Checklist (“Checklist”) and the Illustrated Guide. The Checklist should be used by applicants to show compliance with the Design Standards, and should be included in the application packet at the time of filing. The Illustrated Guide provides Small Lot project examples, as well as guidance and direction for applying the Design Standards. Both the Checklist and Illustrated Guide are intended for use by the Planning Department, other City agencies and Department staff, developers, architects, as well as community members in evaluating project applications.

The Checklist includes five sections:

- A. Building Design
- B. Pedestrian Connectivity and Access
- C. Landscaping
- D. Mixed Use Small Lots
- E. Bungalow Courts and Existing Structures

All new small lot dwellings must comply with Section A through C; Mixed-Use projects must comply with Sections A through D; and Bungalow Courts and Existing Structures Small Lot projects must comply with the design standards set out in Section E. If new dwellings are added to a Bungalow Court or Existing Structure Small Lot project, they must also comply with Sections A through C.

The Design Standards should be used in conjunction with relevant policies from the General Plan Framework and Community Plans. Tentative tract and parcel maps for small lot subdivisions must be consistent with the City’s General Plan and Community Plans in order to be approved. The provisions of the Small Lot Ordinance shall supersede the provisions of a Specific Plan or other overlay district. The provisions of a Specific Plan or other legislatively adopted overlay district (not exempted under the Small Lot Ordinance) shall otherwise supersede. It is important to review all relevant City documents for policies that may affect your small lot design and layout.

SMALL LOT DESIGN STANDARDS

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

CHECKLIST

	Yes	No	N/A	<i>Plan Sheet</i>
A. BUILDING DESIGN				
1. Dwelling Orientation				
a. Small Lot Homes abutting a right-of-way, including a public street, walk street, public stairways (“right-of-way”) or private street shall orient the primary entryway (“front door”) toward the right-of-way or, where there is a physical site constraint, shall provide a clearly identifiable pedestrian entry to the site from the right-of-way.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Small Lot Homes located in the interior of the subdivision shall orient the primary entryway toward and be visible from a pedestrian pathway that is connected to the right-of-way.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Small Lot Homes that abut an alley shall orient the primary entryway toward the alley, or shall be connected to a pedestrian pathway that leads directly to a right-of-way.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
2. Primary Entryways				
a. All Small Lot Homes shall have a primary entryway. All primary entryways shall provide the address or unit identification, ornamental low-level lighting to illuminate the entry area, and a landing area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. All primary entryways shall incorporate <u>at least four of the following</u> elements:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/> i. The entryway shall be recessed at least 2 feet from the building façade to create a covered porch or landing area.				
<input type="checkbox"/> ii. The doorway shall be recessed at least 3 inches from the building façade.				
<input type="checkbox"/> iii. The entryway shall be designed with an overhead projection of at least 6 inches such as an awning or other architectural design features so as to distinguish the front door from the rest of the building façade, unless prohibited by LAMC Section 12.22 C.20.				
<input type="checkbox"/> iv. The entryway shall be clearly marked with a side lite window panel, adjacent window, or a door with a window.				
<input type="checkbox"/> v. The entryway shall be raised or sunken at least one stair step from the pedestrian pathway.				
<input type="checkbox"/> vi. The entryway landing area shall be enhanced with unique paving material, texture, pattern, or color that is differentiated from the pedestrian pathway.				

SMALL LOT DESIGN STANDARDS

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

CHECKLIST (continued)

Yes No N/A *Plan
Sheet*

3. Primary Entryways Between Small Lot Homes

a. Small Lot Homes shall provide at least an 8-foot separation between the face of a primary entryway of a Small Lot Home and the adjacent building wall of a neighboring Small Lot Home. The separation may include projections as listed in 2.b.iii above, but be clear to sky for a minimum of 7 feet. The separation shall be measured along the portion of the pedestrian pathway that provides access to the entryway.

4. Façade Articulation

a. Façades facing a right-of-way, the project perimeter, and all portions of exterior building elevations located greater than 7 feet from an adjacent Small Lot Home, shall be treated with an equal level of detail and articulation, and shall incorporate all of the following façade articulation techniques:

- i. Change in exterior building materials to include at least two high-quality building façade materials that accentuate or correspond to variations in building massing. Building materials may include, but are not limited to: wood, glass, brick, metal spandrel, cement board siding, or tile.
- ii. Porticos, awnings, terraces, balconies, eyebrows, or trellises of at least 6 inches in depth that provide variations in the building plane.
- iii. Window treatments that are extruded or recessed from the building façade a minimum of 3 inches. Windows or doors that are flush with the plane of the building (rather than extruded or recessed at least 3 inches) will not qualify as facade articulation.
- iv. A break in the façade plane of a minimum of 6 inches in depth that is applied to at least 10 vertical feet of the facade.
- v. Other additional architectural enhancements to the floor of the primary entrance and below, so as to create a human scale to the building. Examples include handrails, fixed planters, and ornamental details, such as lighting, molding, or tiles.

SMALL LOT DESIGN STANDARDS

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

CHECKLIST (continued)

	Yes	No	N/A	Plan Sheet
5. Varied Roofline				
a. For any Small Lot Home façade fronting a right-of-way exceeding two stories in height, the roofline shall be articulated by incorporating <u>two of the following</u> :	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/> i. A roof with a slope equal to or greater than 2 inches to 12 inches, including but not limited to a sloped or curved roofline at the top of the dwelling.				
<input type="checkbox"/> ii. An open deck with a minimum of 6 feet in depth and 8 feet in width.				
<input type="checkbox"/> iii. A flat roof with a minimum of 2 feet vertical height difference for a minimum of 10 horizontal feet along the roofline of each building façade.				
<input type="checkbox"/> iv. A break in façade plane of a minimum of 6 inches in depth that is carried up to the roofline.				
<input type="checkbox"/> v. Any form of roofline modulation such as a step back, an outdoor stairwell, or a corner balcony.				
6. Roof Decks				
a. All roof decks along the project perimeter and abutting residential uses shall be stepped back a minimum of 5 feet from the roof edge, so that they are oriented away from and screened to prevent direct views of abutting residential neighbors. Roof decks facing a right-of-way are not required to be stepped back.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
7. Building Massing Variation				
a. Small Lot Homes shall be grouped into clusters to avoid long spans of building wall. Clusters of Small Lot Homes shall be no more than six Small Lot Homes in a single continuous row or 180 linear feet, whichever is smaller. Clusters of Small Lot Homes shall be separated with a building gap of a minimum of 6 feet in width, which shall be treated with a combination of landscaping, open space, and common walkways or driveways.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
b. Small Lot Homes in a single row shall provide a lateral shift or break in the façade of a minimum of 6 inches for every three Small Lot Homes or 90 linear feet, whichever is smaller.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
c. Small Lot Homes shall be unique in design so that there is variety between Small Lot Homes within a subdivision. For a Small Lot Subdivision containing more than six Small Lot Homes in a single row, there shall be at least <u>two</u> variations in building design, such as changes in dwelling orientation, primary entryways, fenestration pattern, façade articulation, or varied roofline as prescribed in Subsections 1-5. For a Small Lot Subdivision of 20 or more Small Lot Homes, there shall be at least <u>three</u> variations in building design as stated above.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____

SMALL LOT DESIGN STANDARDS

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

CHECKLIST (continued)

B. PEDESTRIAN CONNECTIVITY AND ACCESS

Yes No N/A *Plan Sheet*

1. Pedestrian Pathways

- a. Pedestrian pathways of a minimum width of 3 feet shall be provided from the right-of-way to all primary entryways and common areas, such as common open space areas, guest parking, mailboxes, and centralized trash enclosures. _____
- b. A pedestrian pathway located within or parallel to a Common Access Driveway shall be constructed and/or treated with a change of materials, finishes, pattern, or paving that distinguishes the pathway from vehicular traffic. _____
- c. Small Lot Subdivisions of 20 or more Small Lot Homes shall provide pedestrian and bicycle access to surrounding neighborhood rights-of-way. _____

2. Fences/Walls

- a. Fences or walls abutting the street or common open space areas shall be decorative, including but not limited to latticework, ornamental fences, screen walls, hedges or dense shrubs or trees. Solid masonry walls along the right-of-way are not permitted. _____
- b. Fences or walls abutting the right-of-way and within the yard shall provide a point of entry into each lot abutting the right-of-way. _____

C. LANDSCAPING

1. Landscaping, Common Open Space Areas, and Amenities

- a. All setback and open areas not used for buildings, parking areas, driveway, pedestrian pathways, utilities, and common open space areas shall be attractively landscaped and maintained. _____
- b. Required Common Open Space Areas must:
 - i. Be open to the sky and have no structures that project into the common open space area, except as provided in Section 12.22 C.20 (b). _____
 - ii. Be located at grade level, contiguous or connected, and readily accessible to all residents of the site. _____
 - iii. Have a minimum area of 300 sq. ft. with no horizontal dimension less than 15 feet when measured perpendicular from any point on each of the boundaries of the open space area. Driveways, parking spaces, or pedestrian pathways cannot be counted toward the open space requirement. _____

SMALL LOT DESIGN STANDARDS

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

CHECKLIST (continued)

- | | Yes | No | N/A | Plan
Sheet |
|--|--------------------------|--------------------------|--------------------------|---------------|
| <p>c. The combination of required Common Open Space Areas shall be multi-functional and designed to accommodate a range of passive, active, or social uses, with enhancements such as landscaping, activity lawns, swimming pools, spas, picnic tables, benches, children's play areas, ball courts, barbecue areas, sitting areas, decorative bike racks, and/or dog washing stations. Common open space areas may include enhanced side yards and rear yards that meet the minimum area and dimension requirement above.</p> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <p>d. All yards of a subdivision abutting the right-of-way shall be improved with landscaping (combination of groundcover, shrubs, and trees) and amenities. Amenities may include: decorative fencing, uncovered patios, enhanced pedestrian pathways, garden walls, seating areas, and/or decorative bike racks.</p> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |

D. MIXED USE SMALL LOTS

Small Lot Subdivisions may provide Small Lot Homes that contain commercial uses at the ground floor (“Mixed Use Small Lot Homes”). Mixed Use Small Lots must comply with all other applicable regulations governing the site with regards to parking, signage, access, and FAR limitations in the LAMC. The following Design Standards shall be required for any Mixed Use Small Lot Home in addition to the other Design Standards contained in this document.

1. Building Orientation and Entry

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|-------|
| <p>a. Mixed Use Small Lot Homes shall be first located along the perimeter of the subdivision abutting the right-of-way.</p> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <p>b. A Mixed Use Small Lot Home shall provide a separate ground floor entrance to the commercial use, or an identifiable lobby that serves both the residential and commercial uses. The commercial entrance shall be directly accessible from the right-of-way and open during the normal business hours posted by the business.</p> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |

2. Building Design

- | | | | | |
|---|--------------------------|--------------------------|--------------------------|-------|
| <p>a. A Mixed Use Small Lot Home shall be designed with an identifiable ground floor commercial component.</p> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <p>b. Store entrances shall be recessed, not flush, with the edge of the building facade to articulate the storefront and provide shelter for persons entering and exiting.</p> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| <p>c. The ground floor commercial use shall be visually separated from upper residential floors, with a façade treatment such as an awning, framing, setback, or overhang of at least 18 inches in depth, so as to distinguish the commercial base of the building.</p> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |

SMALL LOT DESIGN STANDARDS

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

CHECKLIST (continued)

- | | Yes | No | N/A | <i>Plan Sheet</i> |
|---|--------------------------|--------------------------|--------------------------|-------------------|
| d. The storefront of a ground floor non-residential use that fronts a right-of-way shall consist of at least fifty percent transparent windows and doors, unless otherwise prohibited by other sections of the L.A.M.C. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| e. Signage for the ground floor commercial use shall be located at or adjacent to the ground level, and be located no higher than 14 feet. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |

E. BUNGALOW COURTS AND EXISTING STRUCTURES SMALL LOTS

Existing bungalow courts and detached single, duplex, or triplex dwelling structures may be subdivided in accordance with the 2018 Small Lot Code Amendment. The conversion of an existing “Bungalow Court or Existing Structure” to a Small Lot Subdivision shall only be required to comply with the following Design Standards.

1. Common Access Driveway

Existing Common Access Driveways, pedestrian pathways, and central common open space areas shall be maintained and not reduced in size.

	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
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2. Pedestrian Pathway

Pedestrian pathways of a minimum width of 3 feet shall be provided from the public rights-of-way to all primary entryways and common areas, such as centralized trash enclosures, guest parking, and open space easements. If narrower pathways exist, they may be maintained in the same footprint and area and shall not be further reduced in width.

	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
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3. Existing Structures

New dwelling construction or additions to a designated or identified historic structure shall be in conformance with the Secretary of the Interior’s Standards for Rehabilitation.

	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
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4. New Dwelling

All new dwellings proposed in addition to a Bungalow Court or Existing Structure Small Lot project shall also meet the applicable design standards in sections A, B, and C of the Small Lot Design Standards.

	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
--	--------------------------	--------------------------	--------------------------	-------

5. Landscaping

All open areas not used for buildings, parking areas, driveway, pedestrian pathways, utilities, or amenity areas shall be attractively landscaped and maintained.

	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
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Small Lot Design Standards

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

A. BUILDING DESIGN

1. DWELLING ORIENTATION

Small lot developments can face numerous spatial challenges that require innovative design solutions. Builders and designers should consider all possible configurations that take advantage of the site topography and consider how characteristics of the street and adjacent structures affect the overall form and orientation of the proposed development.

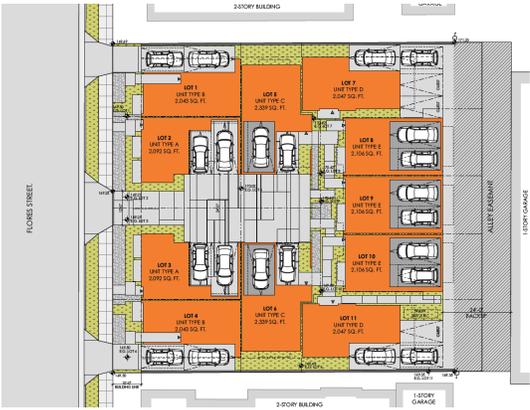
- a.** Small Lot Homes abutting a public right-of-way, including a public street, walk street, public stairways (“right-of way”) or private street shall orient the primary entryway (“front door”) toward the right-of-way or, where there is a physical site constraint, shall provide a clearly identifiable entry to the site from the right-of-way.
- b.** Small Lot Homes located in the interior of the subdivision shall orient the primary entryway toward and be visible from a pedestrian pathway that is connected to the public right-of-way or private street.
- c.** Small Lot Homes that abut an alley shall orient the primary entryway toward the alley, or shall be connected to a pedestrian pathway that leads directly to a right-of-way.



The proposed small lot development on Sanborn Avenue takes advantage of the site’s topography and orients the primary entryways towards a common pedestrian pathway that leads to the public right-of-way.



The front units at the 5112 Melrose small lot development have a strong relationship to the street.



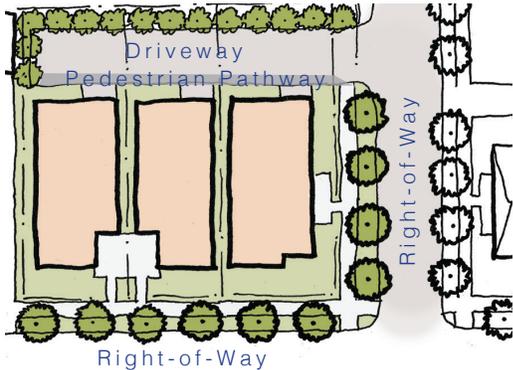
The Flores Street small lot development provides varied driveway access from Flores Street, the alley, and the shared driveway. The four front units have a strong relationship to the street and the interior units have a connection to the shared pedestrian pathway. On Flores St., the center driveway provides access to multiple homes, therefore minimizing the number of driveways and curb cuts.

Small Lot Design Standards

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

A. BUILDING DESIGN

1. DWELLING ORIENTATION: POSSIBLE CONFIGURATIONS

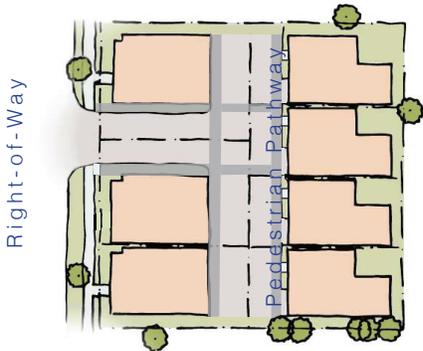


When rear driveways are used:

The right-of-way should give the appearance of an entry. Primary entryways are oriented toward and have direct access to the right-of-way.



When rear T-driveways are used all units should have direct access to the public sidewalk.



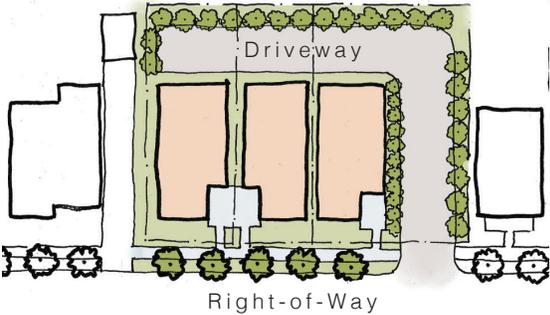
This alternative T-driveway configuration separates rear units from the right-of-way.

The primary entranceways for the rear units have direct access to the pedestrian pathway (as described in section B.1)

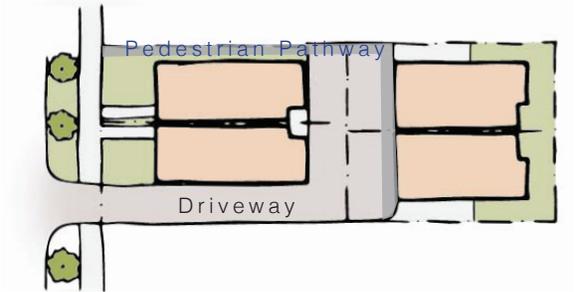
Small Lot Design Standards

A. BUILDING DESIGN

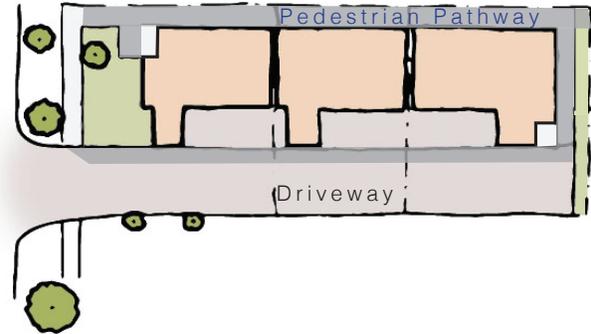
1. DWELLING ORIENTATION: POSSIBLE CONFIGURATIONS (continued)



When rear L-driveways are used, all units front directly onto the public right-of-way.



When an alternate L-driveway is used, all rear units that do not front the right-of way should have access to the pedestrian pathways that connect to the right-of-way (as described in Section B.1).



When side access driveways are used, the primary entranceway of the front home should be accessible from the right-of-way or a pedestrian pathway that is directly connected to the right-of-way.

Interior homes should be accessible from both the driveway and a private walkway directly connected to the right-of-way at the front of the homes.

Small Lot Design Standards

A. BUILDING DESIGN

2. PRIMARY ENTRYWAYS

When entries are well articulated and easy to find, they function as gateways, simultaneously welcoming visitors, allowing for seasonal decorations, and clearly delineating the boundaries of the private realm.

- a. All Small Lot Homes shall have a primary entryway. All primary entryways shall provide the **address or unit identification, ornamental low-level lighting to illuminate the entry area, and a landing area.**



Small Lot Design Standards

A. BUILDING DESIGN

2. PRIMARY ENTRYWAYS (continued)

In addition to the address identification, lighting, and landing area, the primary entryways shall be articulated in order to enhance the overall quality of the project. Entryways may also offer habitable outdoor space in the form of a small front porch or patio.

- b.** All primary entryways shall incorporate **at least four** of the following elements:
 - i.** The entryway shall be recessed at least 2 feet from the building façade to create a porch or landing area.
 - ii.** The doorway shall be recessed at least 3 inches from the building façade.
 - iii.** The entryway shall be designed with an overhead projection of at least 6 inches such as an awning or other architectural design features so as to distinguish the front door from the rest of the building façade, unless prohibited by LAMC Section 12.22 C.20.
 - iv.** The entryway shall be clearly marked with a side lite window panel, adjacent window, or a door with a window.
 - v.** The entryway shall be raised or sunken at least one stair step from the pedestrian pathway.
 - vi.** The landing area shall be enhanced with unique paving material, texture, pattern, or color that is differentiated from the pedestrian pathway.



Entryways, porches, landing areas, and stoops clearly delineate public and private realms while maintaining a comfortable relationship between these realms and their users.



Small overhangs above the doors at Maltman Bungalows (left) and Modative's Fay small lot development (right) provides shade and shelter, as well as adding articulation to the entryway.



Small Lot Design Standards

A. BUILDING DESIGN

3. PRIMARY ENTRYWAYS BETWEEN SMALL LOT HOMES

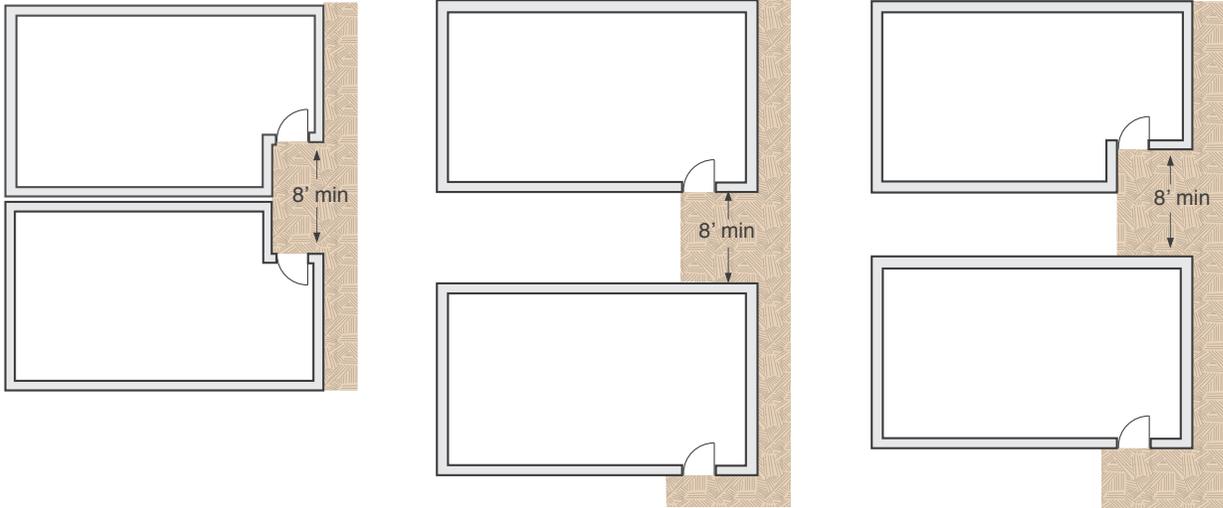
Small lot developments can face several spatial challenges, however designers should consider how the configuration of the building responds to adjacent small lot homes; in particular the relationship between the primary entryway and the abutting properties. Providing access to air, light, and ventilation is more challenging for small lot developments compared to typical single-family designs. Thus, it is important for the design of small lot homes to strive to create livable environments.

a. Small Lot Homes shall provide at least an 8 foot separation between the face of a primary entryway of a Small Lot Home and the adjacent building wall of a neighboring Small Lot Home. The separation may include projections as listed in 2.b.iii, but be clear to sky for a minimum of 7 feet. The separation shall be measured along the portion of the pedestrian pathway that provides access to the entryway.

POSSIBLE CONFIGURATIONS

The 8-foot separation from a primary entryway and the adjacent building wall allows for a more livable, inviting space for residents and visitors.

Note: The Design Standards specify the distance between the entryway and abutting wall, not the distance between two entryways.



Small Lot Design Standards

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

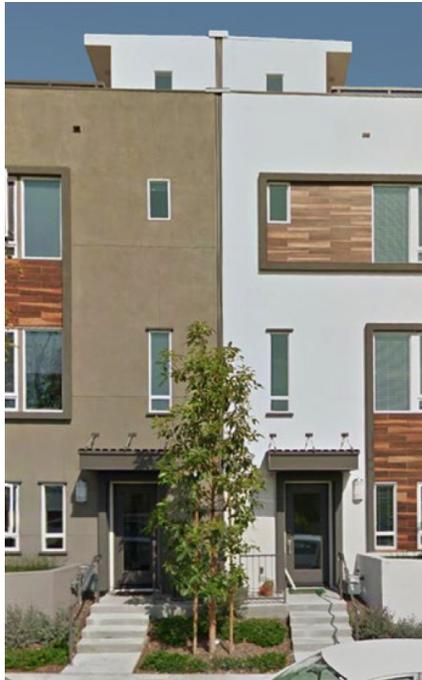
A. BUILDING DESIGN

4. FAÇADE ARTICULATION

The building facade is a crucial element in relating the building to the street and neighborhood. Effectively placed and articulated doors, windows, and balconies can enhance the overall quality of the project. Additionally, architecture often varies in style even within Los Angeles’s neighborhoods. Therefore, context and surrounding structures should inform the choice of materials for small lot development.

a. Façades facing a right-of-way, the project perimeter, and all portions of exterior building elevations located greater than 7 feet from an adjacent Small Lot Home, shall be treated with an equal level of detail and articulation, and shall incorporate **all of the following** façade articulation techniques:

- i.** Change in exterior building materials to include at least two high-quality building façade materials that accentuate or correspond to variations in building massing. Building materials may include, but are not limited to: wood, glass, brick, metal spandrel, cement board siding, or tile.
- ii.** Porticos, awnings, terraces, balconies, or trellises that provide variations in the building plane.
- iii.** Window treatments that are extruded or recessed from the building façade a minimum of 3 inches. Windows or doors that are flush with the plane of the building (rather than extruded or recessed at least 3 inches) will not qualify as facade articulation.
- iv.** A break in the façade plane of a minimum of 6 inches in depth that is applied to at least 10 vertical feet of the façade.
- v.** Other additional architectural enhancements to the floor of the primary entrance and below, so as to create a human scale to the building. Examples include handrails, fixed planters, and ornamental details, such as lighting, molding, or tiles.



The Gramercy Place small lot development (right) features varied façade materials.

The Parkman small lot development (left), utilizes Spanish Colonial architectural features that relate to the context and surrounding structures in the neighborhood.

Small Lot Design Standards

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

A. BUILDING DESIGN

5. VARIED ROOFLINE

Roofs are an integral part of any house and are one of the most important elements. To design a visually stimulating house, a few different roof types may be used together or several of the same structure may be utilized in different ways. This creates a home that uniquely responds to both its interior function and its exterior individuality. Small lot home roofs should exhibit individuality, but should also be sensitive to context and surrounding structures.



a. For any Small Lot Home façade fronting a right-of-way exceeding two stories in height, the roofline shall be articulated by incorporating **two of the following**:

- i.** A roof with a slope equal to or greater than 2 inches to 12 inches, including but not limited to a sloped or curved roofline at the top of the dwelling.
- ii.** An open deck with a minimum of 6 feet in depth and 8 feet in width.
- iii.** A flat roof with a minimum of 2 feet vertical height difference for a minimum of 10 horizontal feet along the roofline of each building façade.
- iv.** A break in façade plane of a minimum of 6 inches in depth that is carried up to the roofline.
- v.** Any form of roofline modulation such as a step back, an outdoor stairwell, or a corner balcony.



The Blackbirds Small Lot Development (below) in Echo Park features a pitched roof.



Small Lot Design Standards

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

A. BUILDING DESIGN

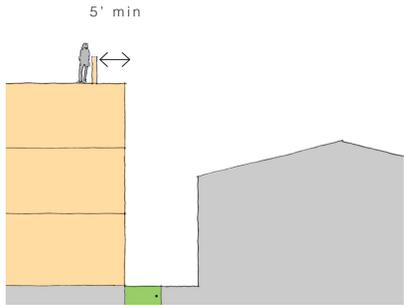
6. ROOF DECKS

Within small lot developments, the addition of roof decks is not intended to provide additional living space, but offers the opportunity for fully private outdoor space for each dwelling. Small lot developments are encouraged to maximize access to private outdoor space, light, and air.

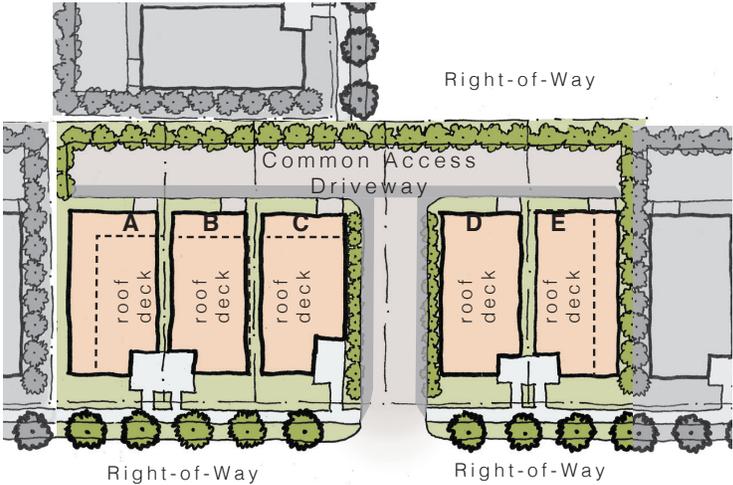
A roof deck is a flat open portion atop a roof, such as a terrace or sundeck, and is the base upon which the entire roofing system is dependent. If a roof deck is located above the maximum permitted building height it shall have an open design with no rooftop structures, as they count towards building height. The setback space between the guardrail and roof perimeter should include buffering or landscaping that does not exceed the maximum allowable height.

- a.** All roof decks along the project perimeter and abutting residential uses shall be stepped back a minimum of 5 feet from the roof edge, so that they are oriented away from and screened to prevent direct views of abutting residential neighbors. Roof decks facing a right-of-way are not required to be stepped back.

Note: If rooftop guardrails are located above the maximum permitted building height the applicant will need to request height relief and comply with the requirements for rooftop guardrails specified in the LAMC Section 12.21.1B3(a).



Roof decks facing residential uses stepped back by a minimum of 5 feet provides for greater privacy for all residents.



- Small Lot A:** Roof deck setback by 5 ft. on the side and rear because home abuts residential uses. No setback in front required because of right-of-way.
- Small Lot B:** Roof deck setback by 5 ft. on rear only because of abutting residential uses.
- Small Lot C:** Roof deck setback by 5 ft. on rear only because of abutting residential neighbor.
- Small Lot D:** No roof deck setback required.
- Small Lot E:** Roof deck setback on sideyard because of abutting residential uses.



The roof decks for this KTG Y COVO small lot project are setback from the abutting residential units and face toward the common access driveway.

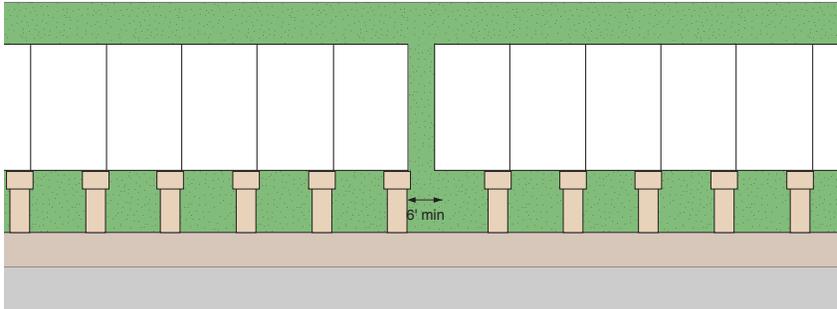
Small Lot Design Standards

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

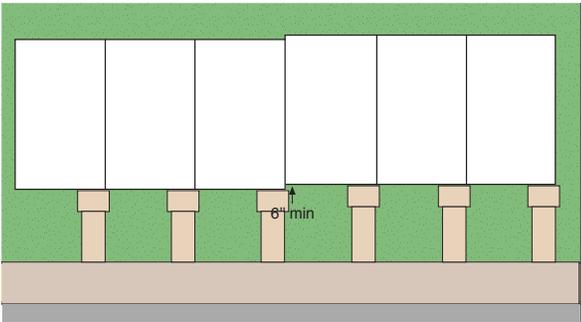
A. BUILDING DESIGN

7. BUILDING MASSING VARIATION

Variation in the building massing and placement creates a greater contrast in the facade and more articulated building edges, which enhances the overall quality of the street by providing visual interest and a pedestrian scale.

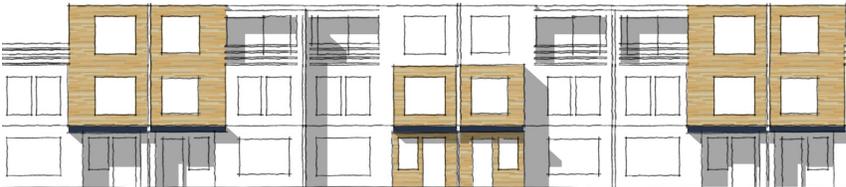


a. Small Lot Homes shall be grouped into clusters to avoid long spans of building wall. Clusters of Small Lot Homes shall be no more than six Small Lot Homes in a single continuous row or 180 linear feet, whichever is smaller. Clusters of Small Lot Homes shall be separated with a building gap of a minimum of 6 feet in width, which shall be treated with a combination of landscaping, open space, and common walkways or driveways.



b. Small Lot Homes in a single row shall provide a lateral shift or break in the façade of a minimum of 6 inches for every three Small Lot Homes or 90 linear feet, whichever is smaller.

c. Small Lot Homes shall be unique in design so that there is variety between Small Lot Homes within a subdivision. For a Small Lot Subdivision containing more than six Small Lot Homes in a single row, there shall be **at least two variations** in building design, such as changes in dwelling orientation, primary entryways, fenestration pattern, façade articulation, or varied roofline as prescribed in Subsections 1-5. For a Small Lot Subdivision of 20 or more Small Lot Homes, there shall be **at least three variations** in building design as stated above.



Small Lot Design Standards

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

B. PEDESTRIAN CONNECTIVITY AND ACCESS

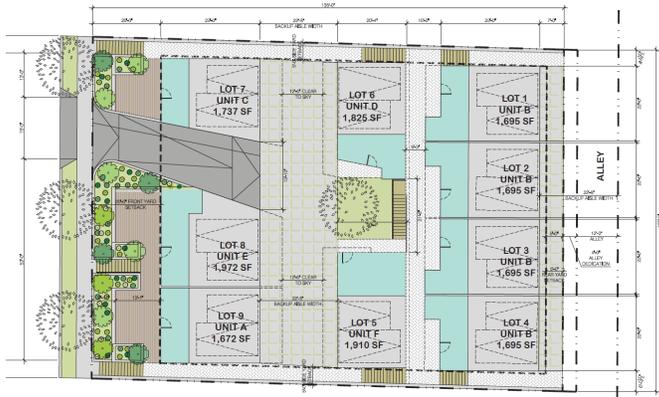
1. PEDESTRIAN PATHWAYS

Small lot developments should maintain a high-quality public and private living environment, while also accommodating for the automobile. In poor design layouts, parking, driveways, and garages can dominate the landscape, creating conflicts for pedestrians and decreasing the aesthetic quality of the development. Therefore, the small lot development should allow for a pedestrian access path separate from the driveway whenever possible. When the driveway provides pedestrian access to individual dwellings, a distinguishable path should be provided.

- a. Pedestrian pathways of a minimum width of 3 feet shall be provided from the public rights-of-way to all primary entryways and common areas, such as common open space areas, guest parking, mailboxes, and centralized trash enclosures.
- b. A pedestrian pathway located within or parallel to a Common Access Driveway shall be constructed and/or treated with a change of materials, finishes, pattern, or paving that distinguishes the pathway from vehicular traffic.
- c. Small Lot Subdivisions of 20 or more Small Lot Homes shall provide pedestrian and bicycle access to surrounding neighborhood rights-of-way.



Rock Row uses permeable paving to provide a more hospitable pedestrian path along the driveway.



The proposed Parkman Small Lot project integrates pedestrian paths through the center and sides of the site, which allows for a direct connection with the right-of-way.



Pedestrian paths through the center of a project provide both access from parking and common amenity space.

Small Lot Design Standards

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

B. PEDESTRIAN CONNECTIVITY AND ACCESS

2. FENCES and WALLS



The Gaspar SLS fences provides a point of entry for each individual home.

Fences and walls facing the public right of way play an important function, since they serve as a bridge between the public and private outdoor spaces, and therefore deserve particular attention.

The Small Lot Ordinance Code Amendment requires that fences and walls within the yard setback areas adjacent to a public right of way, except alleys, and along the perimeter of the proposed subdivision shall be no more than three and one-half feet in height. Fences and walls within the yard setback areas along the perimeter, not adjacent to the public right of way, of the proposed subdivision shall be no more than six feet in height.

- a.** Fences or walls abutting the street or common open space areas shall be decorative, including but not limited to latticework, ornamental fences, screen walls, hedges or dense shrubs or trees. Solid masonry walls along the right-of-way are not permitted.
- b.** Fences or walls abutting the right-of-way and within yard setback area shall provide a point of entry into each lot abutting the right-of-way.



The June Street Collection SLS (left) and the example on the right provide examples of decorative fences facing the public right of way.

Small Lot Design Standards

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

C. LANDSCAPING

1. LANDSCAPING, COMMON OPEN SPACE, AND AMENITIES

Landscaping within small lot development should be visually interesting, sustainable, and relatively easy to maintain. The landscape design should be integrated with the building and the intended use of the space. Ultimately, the landscape should enhance the natural environment of the neighborhood. Open space is encouraged for all small lot communities. Open space, when provided should be usable, safe, and convenient, and should accommodate a wide range of passive, active, or social uses.

a. All setback and open areas not used for buildings, parking areas, driveway, pedestrian pathways, utilities, and common open space areas shall be attractively landscaped and maintained.

b. Required Common Open Space Areas must:

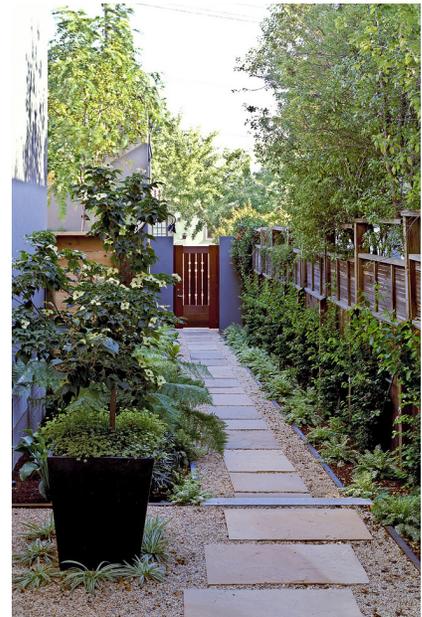
i. Be open to the sky and have no structures that project into the common open space area, except as provided in Section 12.22 C.20(b).

ii. Be located at grade level, contiguous or connected, and readily accessible to all residents of the site.

iii. Have a minimum area of 300 sq. ft. with no horizontal dimension less than 15 feet when measured perpendicular from any point on each of the boundaries of the open space area. Driveways, parking spaces, or pedestrian pathways cannot be counted toward the open space requirement.

c. The combination of required Common Open Space Areas shall be multi-functional and designed to accommodate a range of passive, active, or social uses, with enhancements such as landscaping, activity lawns, swimming pools, spas, picnic tables, benches, children's play areas, ball courts, barbecue areas, sitting areas, decorative bike racks, and/or dog washing stations. Common open space areas may include enhanced side yards and rear yards that meet the minimum area and dimension requirement above.

d. All yards of a subdivision abutting the right-of-way shall be improved with landscaping (combination of groundcover, shrubs, and trees) and amenities. Amenities may include: decorative fencing, uncovered patios, enhanced pedestrian pathways, garden walls, seating areas, and/or decorative bike racks.



This side yard with a pedestrian pathway is wide enough to allow for layers of planting and decorative paving.



At grade, common open space with active uses and landscaping.

Small Lot Design Standards

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

D. MIXED USE SMALL LOTS

Small Lot Subdivisions may include Small Lot Homes that contain commercial uses at the ground floor (“Mixed Use Small Lot Homes”). Mixed Use Small Lot projects must comply with all other applicable regulations governing the site with regards to parking, signage, access, and FAR limitations specified in the LAMC. The following Design Standards shall be required for any Mixed Use Small Lot Home in addition to the other Design Standards contained in this document.

1. BUILDING ORIENTATION AND ENTRY

- a. Mixed Use Small Lot Homes shall be first located along the perimeter of the subdivision abutting the right-of-way.
- b. A Mixed Use Small Lot Home shall provide a separate ground floor entrance to the commercial use, or an identifiable lobby that serves both the residential and commercial uses. The commercial entrance shall be directly accessible from the right-of-way and open during the normal business hours posted by the business.



2. BUILDING DESIGN

- a. A Mixed Use Small Lot Home shall be designed with an identifiable ground floor commercial component.
- b. Store entrances shall be recessed, not flush, with the edge of the building façade to articulate the storefront and provide shelter for persons entering and exiting.
- c. The ground floor commercial use shall be visually separated from upper residential floors, with a façade treatment such as an awning, framing, setback or overhang of at least 18 inches in depth, so as to distinguish the commercial base for the building.
- d. The storefront of a ground floor non-residential use that fronts a right-of-way shall consist of at least fifty percent transparent windows and doors, unless otherwise prohibited by other sections of the L.A.M.C.
- e. Signage for the ground floor commercial use shall be located at or adjacent to the ground level, and be located no higher than 14 feet.



Example of a proposed mixed-use Small Lot Development in Eagle Rock by Encore Funds. Individual commercial tenants occupy the ground floor of the single-family homes along a commercial corridor.

Small Lot Design Standards

ILLUSTRATED GUIDE FOR SMALL LOT DESIGN STANDARDS

E. BUNGALOW COURTS AND EXISTING STRUCTURES

Existing bungalow courts and detached single, duplex, or triplex dwelling structures may be subdivided in accordance with the 2018 Small Lot Code Amendment. Existing dwellings and bungalow courts that are nonconforming as to density, yards, or parking may be subdivided provided that the subdivision does not further increase the density nor reduce the yards, and that existing parking be maintained, respectively.

- 1. Common Access Driveway**
Existing Common Access Driveways, pedestrian pathways, and central common open space areas shall be maintained and not reduced in size.
- 2. Pedestrian Pathway**
Pedestrian pathways of a minimum width of 3 feet shall be provided from the public rights-of-way to all primary entryways and common areas, such as centralized trash enclosures, guest parking, and open space easements. If narrower pathways exist, they may be maintained in the same footprint and area and shall not be further reduced in width.
- 3. Existing Structures**
New dwelling construction or additions to a designated or identified historic structure shall be in conformance with the Secretary of the Interior's Standards for Rehabilitation.
- 4. New Dwellings**
All new dwellings proposed in addition to a Bungalow Court or Existing Structure Small Lot project shall meet the applicable design standards in sections A, B, and C of the Small Lot Design Standards.
- 5. Landscaping**
All open areas not used for buildings, parking areas, driveway, pedestrian pathways, utilities, or amenity areas shall be attractively landscaped and maintained.



The Morton Village small-lot subdivision consists of 15 newly constructed units at the rear of the property and the remodel of 3 existing bungalows that face the street.



Restoration preserved and enhanced the charm of the original Maltman Bungalows.





Correspondence

From: Jack Kurzweil <jack.kurzweil@gmail.com>
Sent: Tuesday, June 24, 2025 3:11 PM
To: All Council
Cc: Planning Commission
Subject: Resending -- The Missing Middle - An Observation and Comment
Attachments: To the Berkeley City Council.docx

Follow Up Flag: Follow up
Flag Status: Flagged

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Apologies for the garbled formatting - Please see the ATTACHMENT

Dear Mayor Ishii and Berkeley City Council Members,

As a consequence of a previous commitment, I am not able to be present at the Berkeley City Meeting on Thursday, June 26 to deliver the comments below in person. I do want these comments to be part of the record.

And I would appreciate an acknowledgement of the receipt of these comments from each member of the City Council.

Thank You,
Jack Kurzweil

Remarks to the Berkeley City Council

June 26, 2025

Jack Kurzweil

The Missing Middle Proposal rests on the unchallenged assumption that the reality of the housing mix in the part of CD-4 between University and Dwight and between MLK and Sacramento (and, by extension, to the rest of CD4 as well as CD2 and CD3) corresponds to the existing zoning of R2 and R2A. This assumption is verifiably false, and that falseness has been brought to the attention of the Mayor and the City Council on numerous occasions.

There has been no response to these communications from any member of the Council or the Mayor.

The reality is that the section of CD4 to which I've referred contains more than 50 apartment houses with many of them containing 10 or more units. In addition, there are many duplexes, triplexes, and fourplexes in this area. In fact, there are 15 apartment houses on Grant St. between University and Dwight.

The R2 and R2A zoning was adopted in the early 1970's in response to the unregulated building of apartment houses in these areas from the late 1950's.

Whatever the label, the reality of CD4 simply does not correspond to its characterization as R2 and R2A in the Missing Middle proposal. To pass the Missing Middle without explicitly considering the reality of the housing mix in CD 2,3,4 would be to adopt a policy based on false premises.

Additionally, the recent newsletter of one of the Council Members implies that the Missing Middle program will make housing available to lower income families. However, it seems that these few "affordable" units will come with density bonuses for developers, leading to higher buildings that occupy more of their lots and crowding out green spaces.

At the same time, two abandoned apartment buildings at 2416 Roosevelt and 1915 Delaware as well as a large vacant lot on McKinley between Allston and Addison have been sitting there for decades without any City action at all. These are specific locations where the community will overwhelmingly support building denser and affordable housing. Rather than passing misguided policies, the City should place the real possibilities on the table.

Please delay the consideration of Missing Middle to take this reality into account.

Correspondence

From: Dietmar Lorenz <dlorenz@dsaarch.com>
Sent: Thursday, June 26, 2025 6:10 PM
To: Berkeley Mayor's Office; All Council
Cc: Planning Commission; Klein, Jordan; nico@berkeleyside.org
Subject: Re: Zoning Ordinance Amendments Relating to Middle Housing

Follow Up Flag: Follow up
Flag Status: Flagged

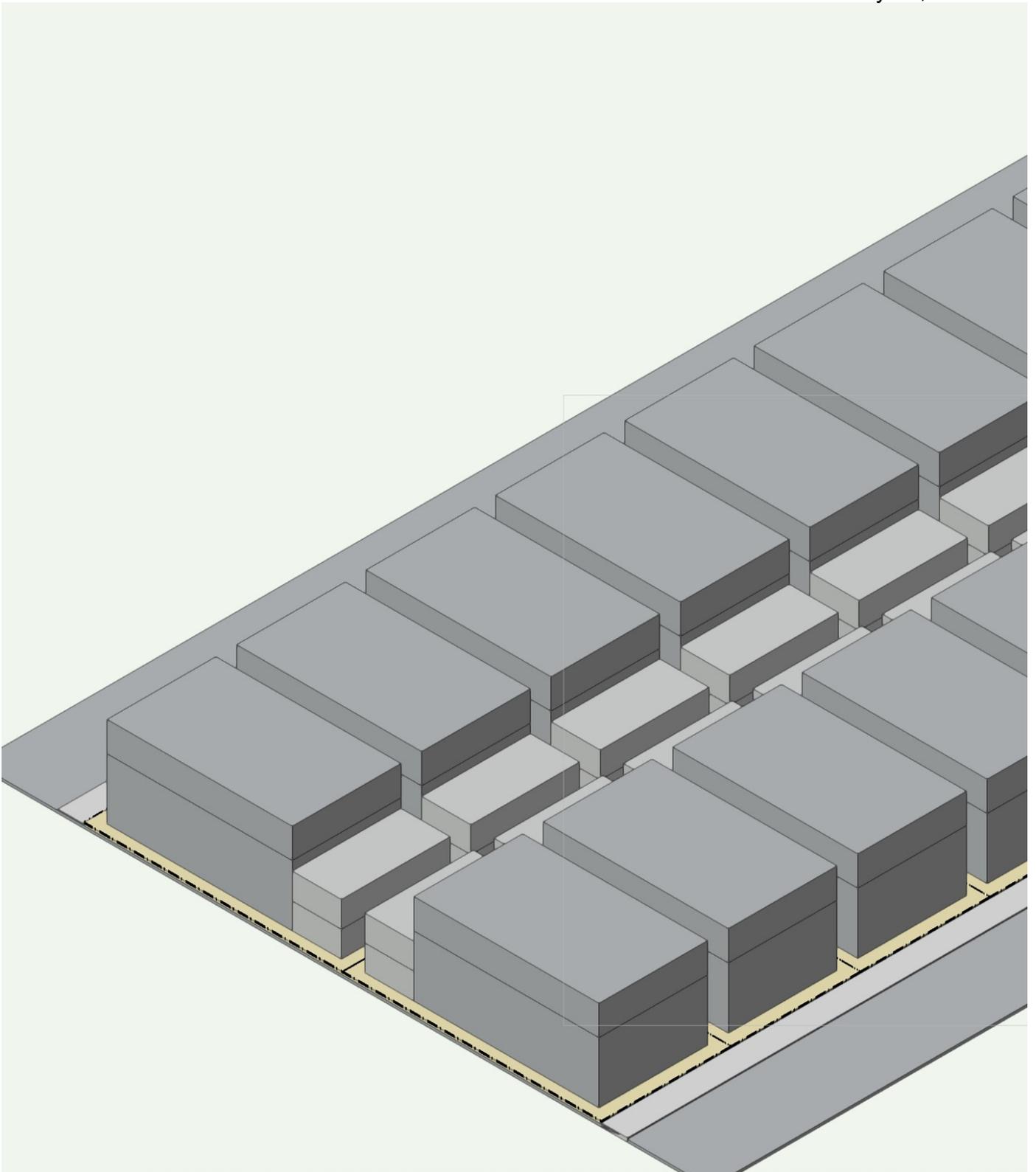
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Mayor Ishii, members of the Council -

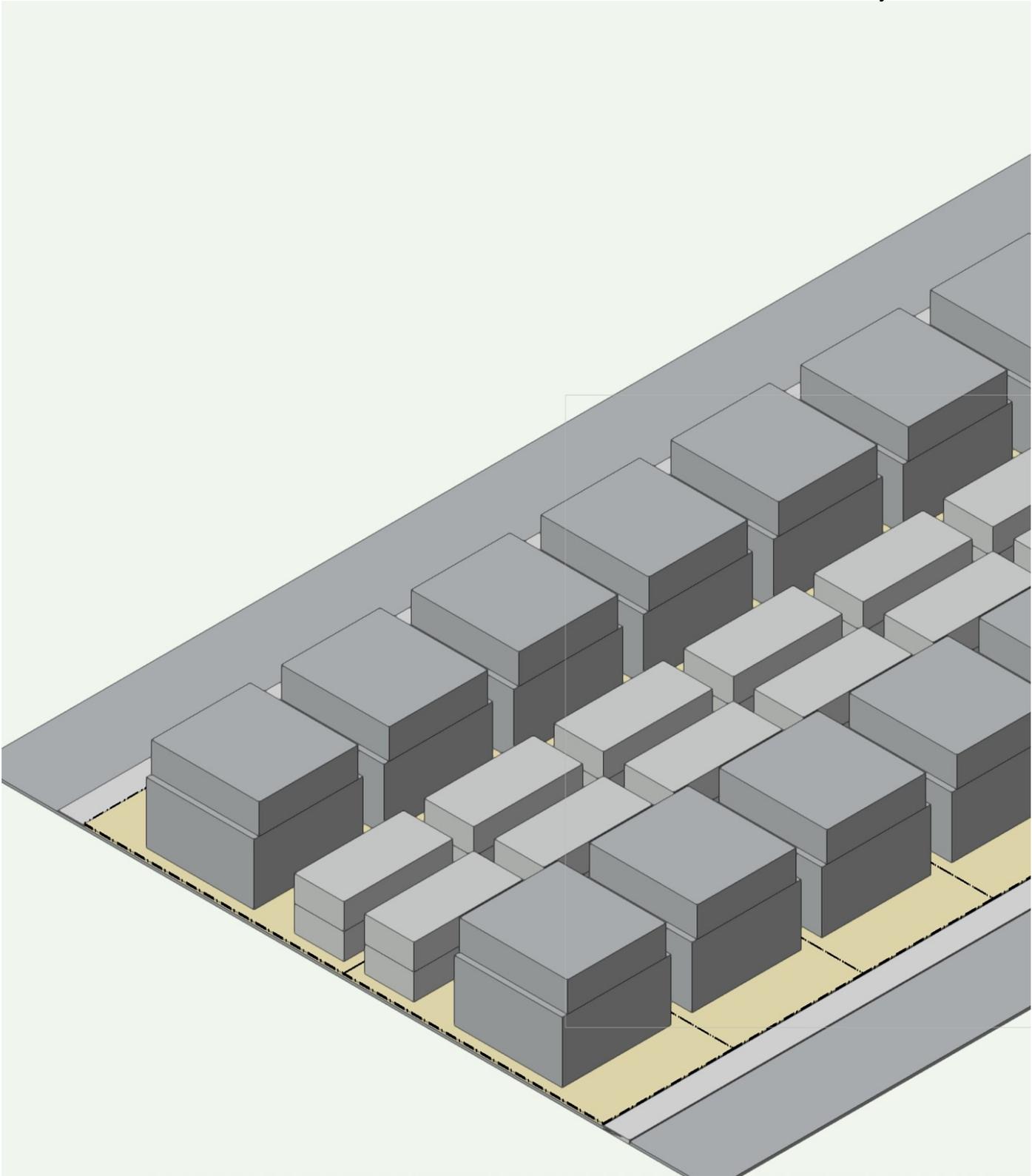
As you are deciding on what Berkeley's residential neighborhoods may turn into over the coming decades, here are some illustrations of the by-right allowable bulk on a 50x100 ft parcel in the current MH proposal, compared to the current allowable R-2 zoning. As you can see, it doesn't look like the illustrations and photos of the benign 2-story duplex/triplex/quadruplex examples that could all be realized largely without such an aggressive increase in the allowable bulk, which will hurt the city and is not needed to achieve a meaningful density increase.

Respectfully,
Dietmar Lorenz

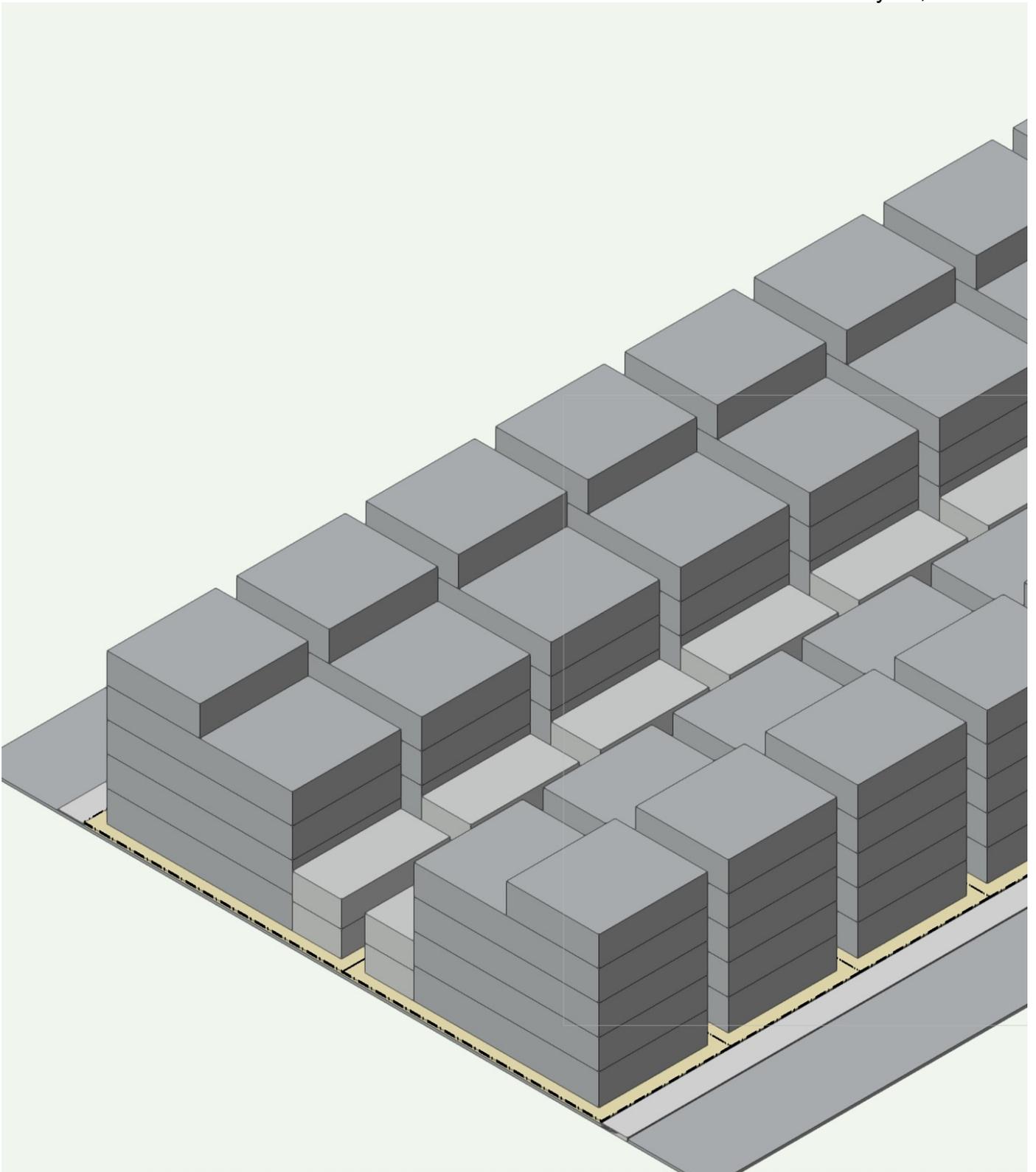
Proposed MH:



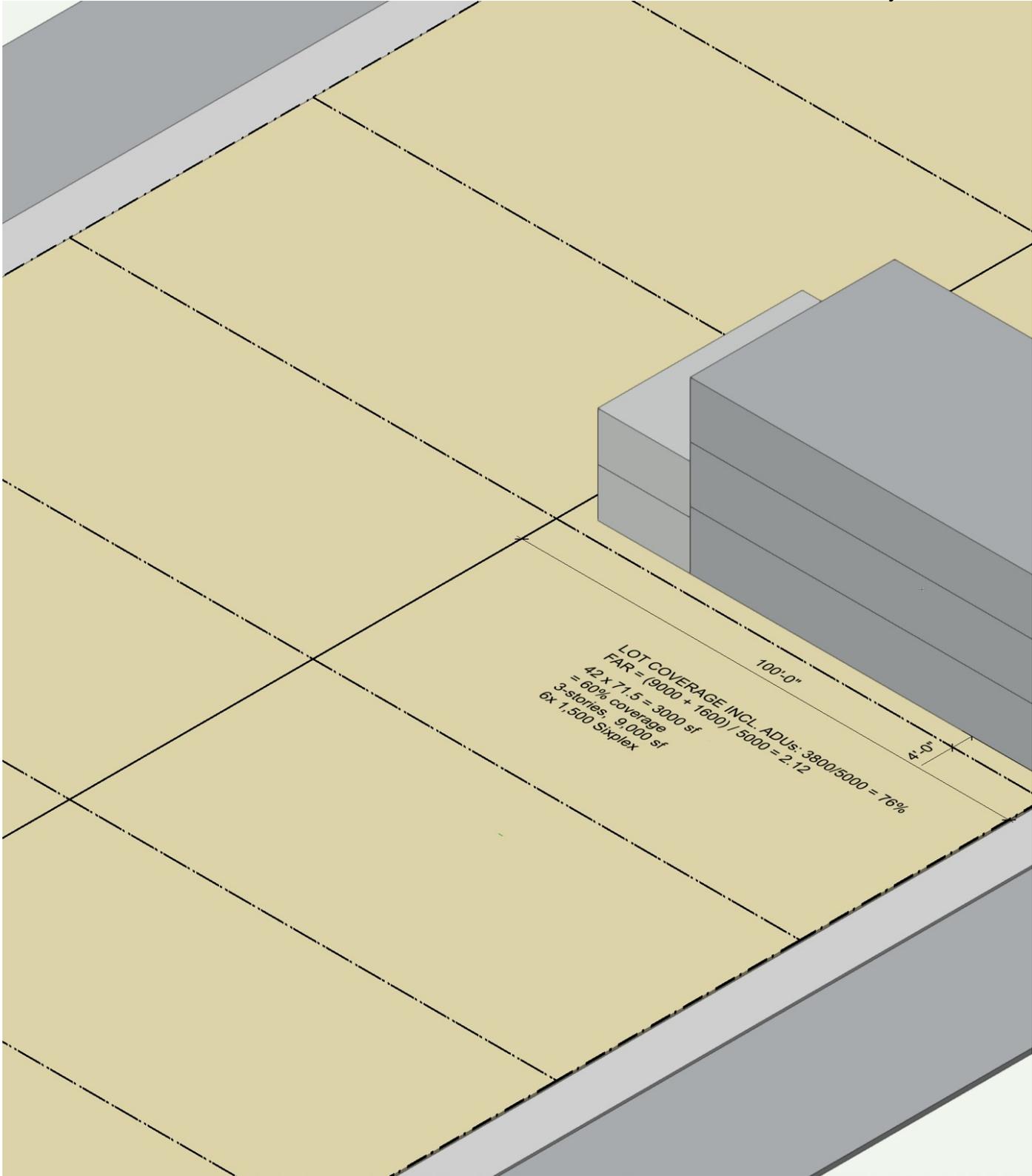
Existing R-2 zoning:

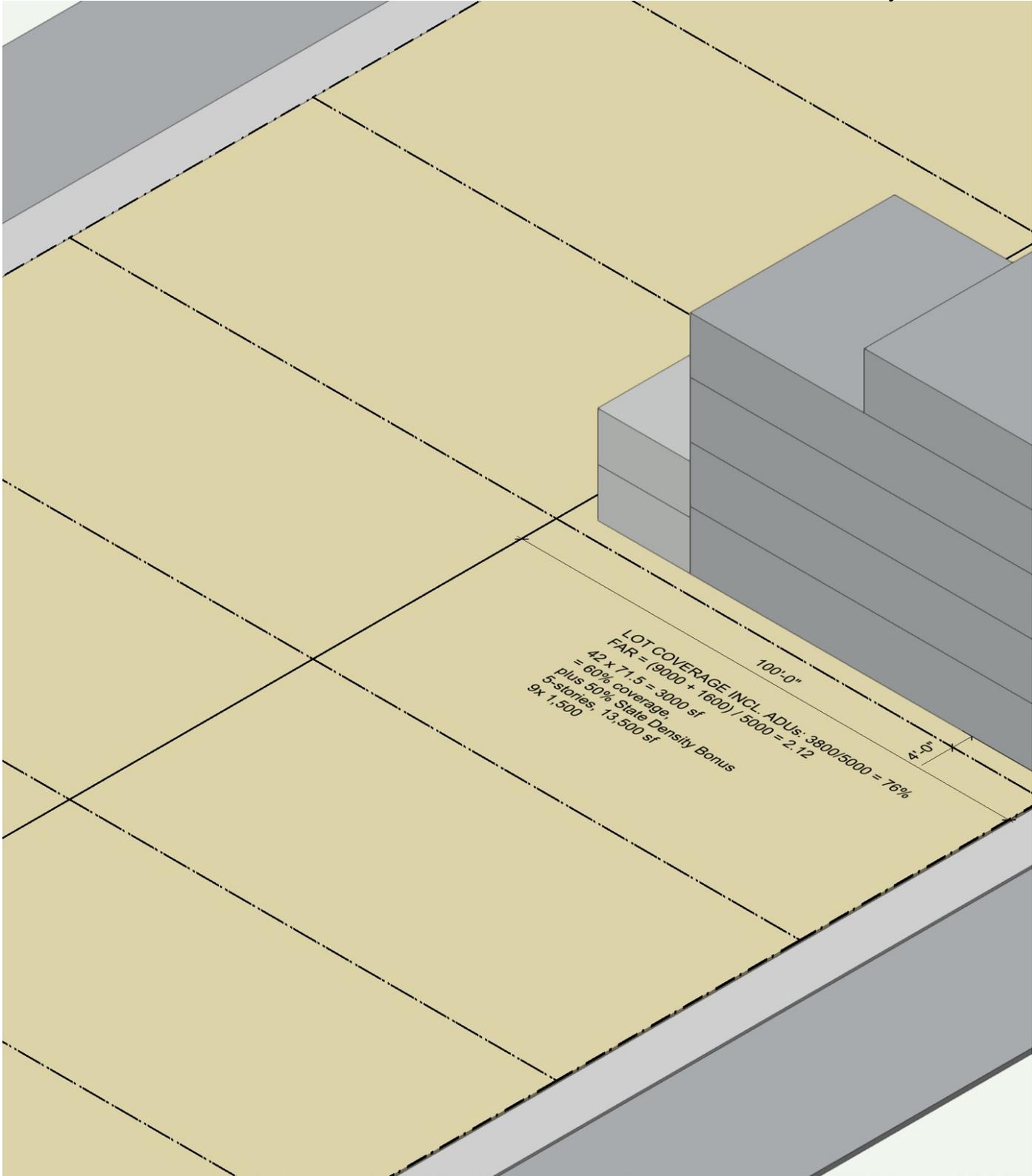


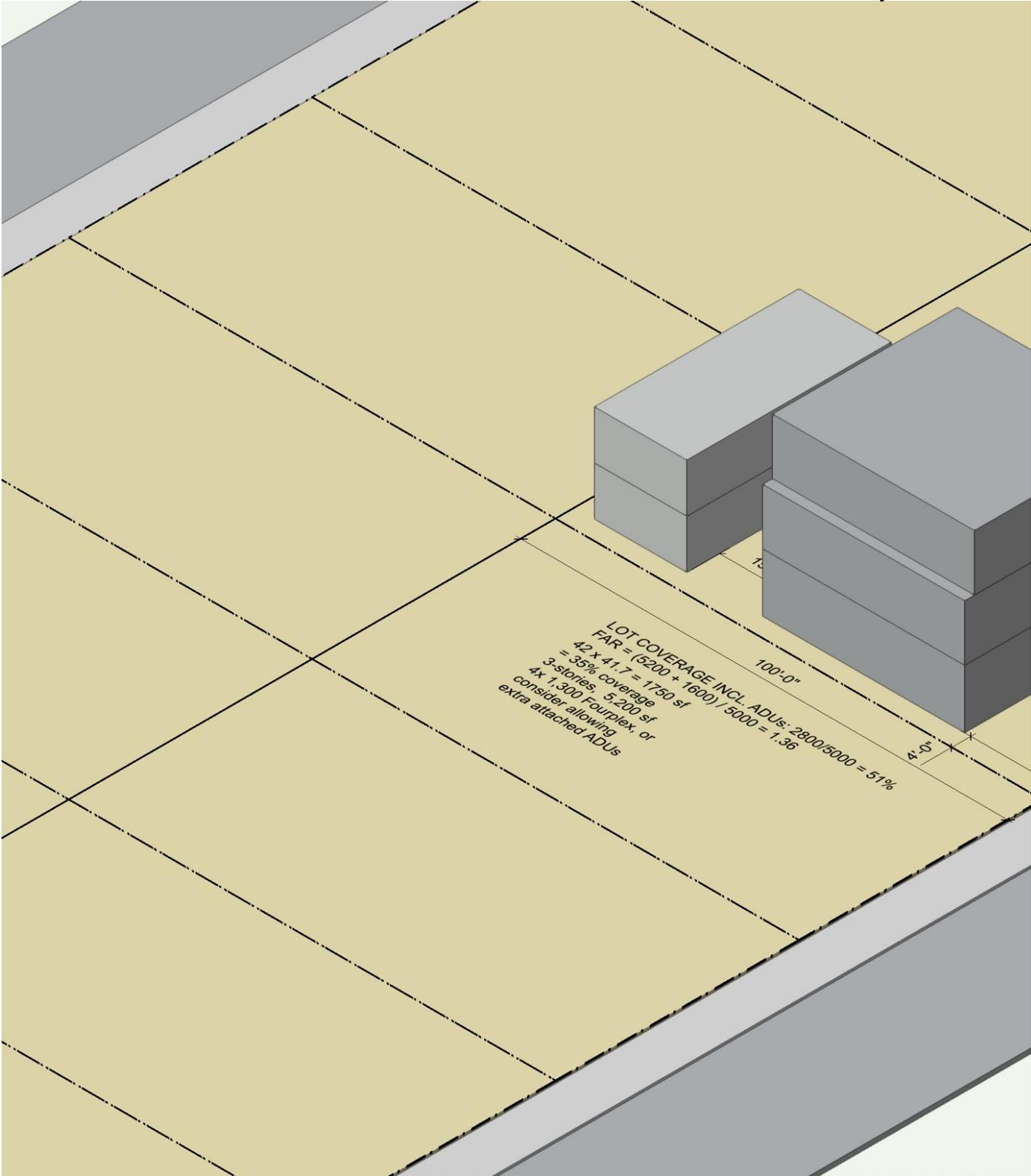
Proposed MH plus Density Bonus



Individual bulk analysis and zoning metrics:

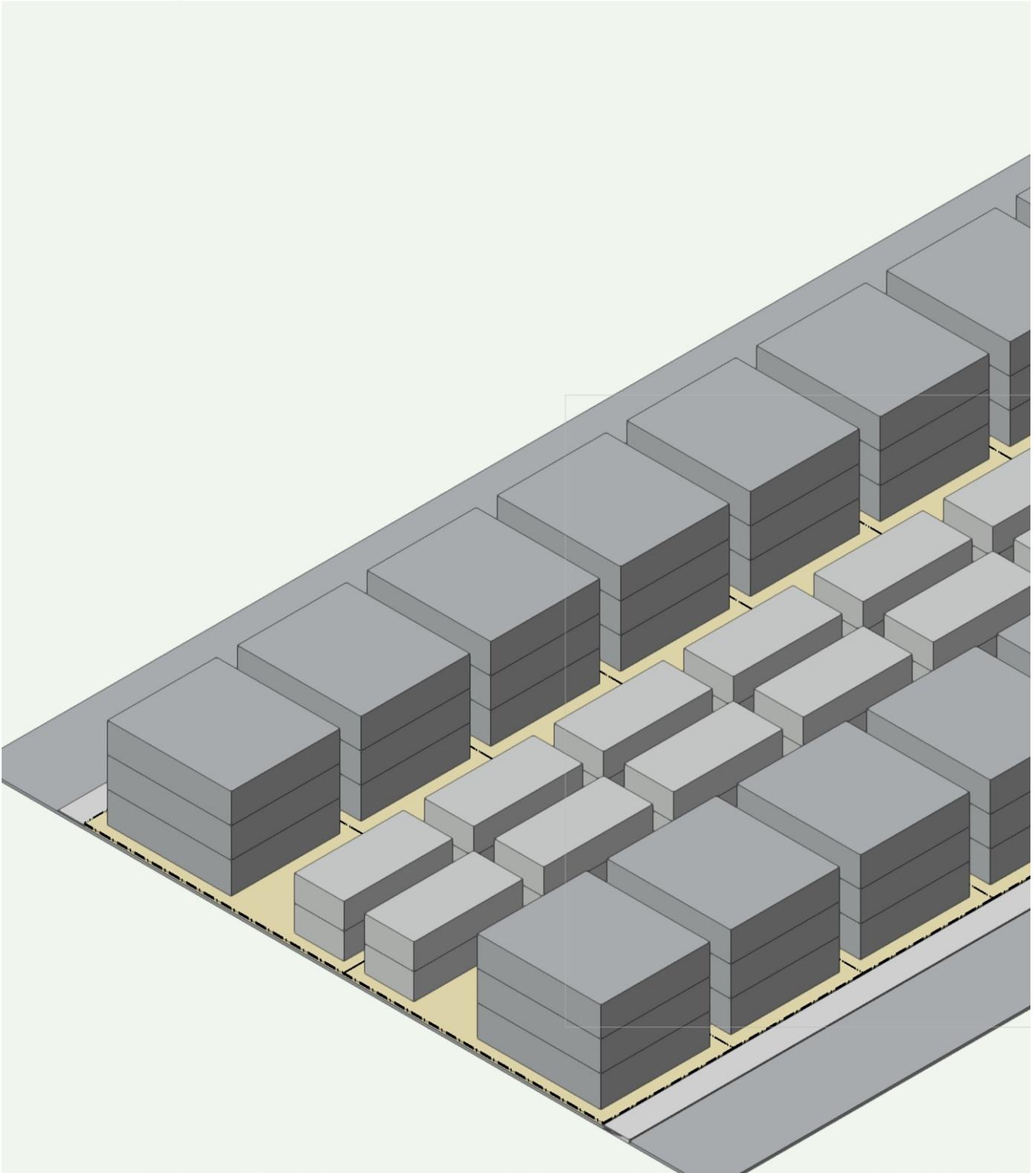


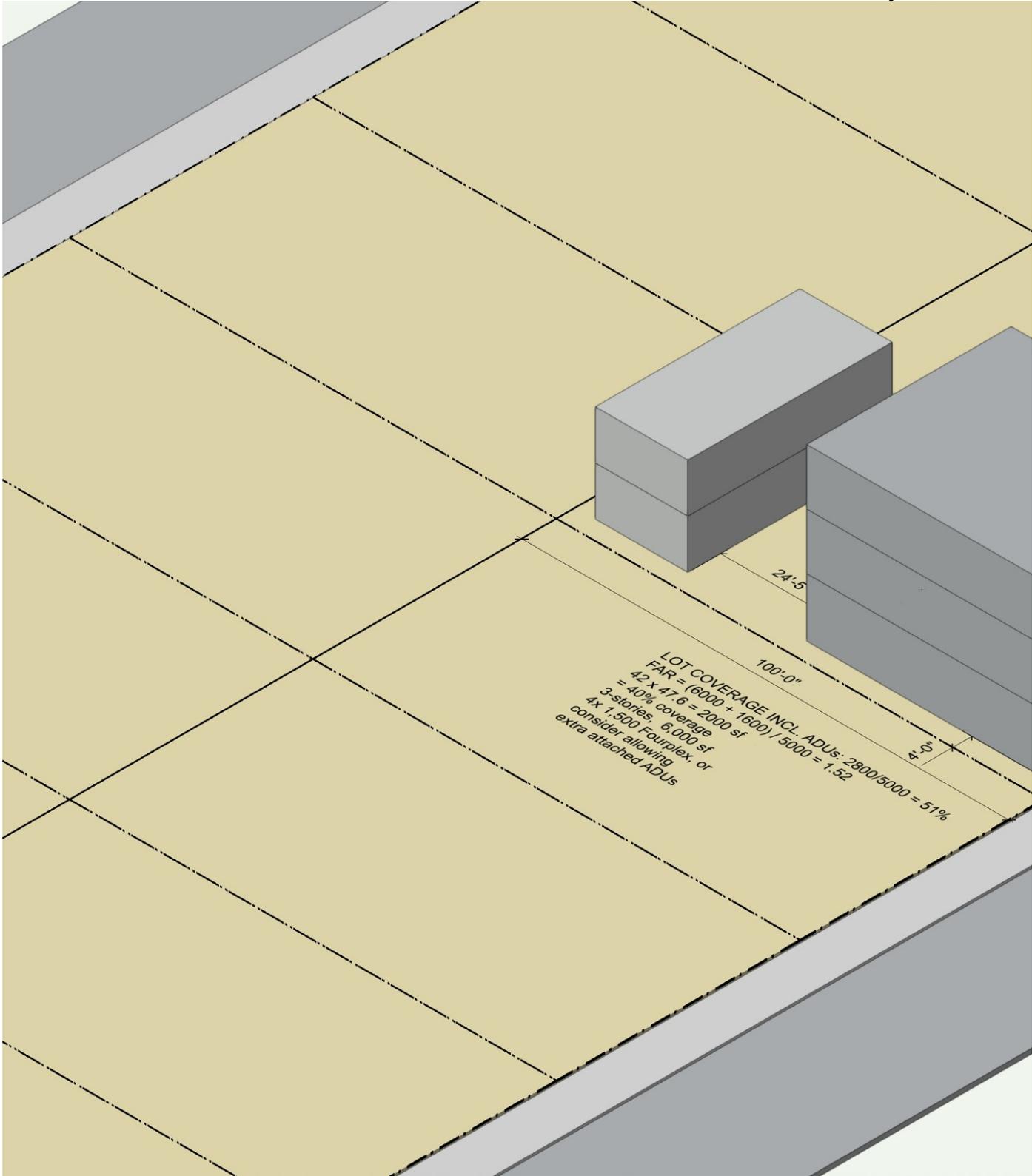


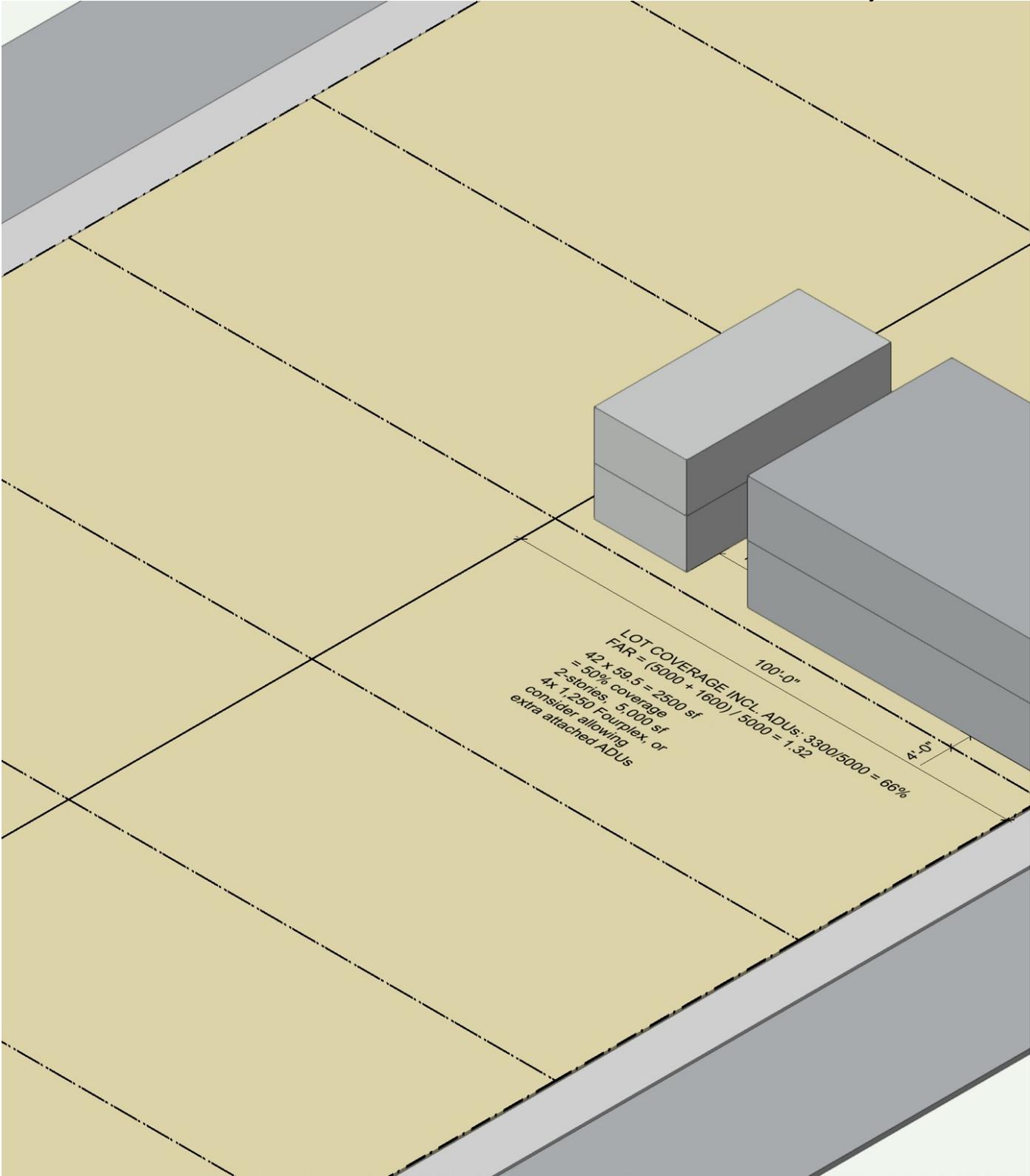


Alternative to the current MH proposal:

Alternative with slightly increased bulk, reduced front setback, doubled density (or more, with extra ADUs). This will produce more variety as there will be more than one option to max out the by-right allowance, rather than filling up the entire lot to 35ft height:







d s a architects

dietmar lorenz
architect
1107 virginia street | berkeley | california 94702
510.526.1935 | www.dsaarch.com

On Jun 22, 2025, at 7:08 PM, Dietmar Lorenz <dlorenz@dsaarch.com> wrote:

Mayor Ishii, members of the Council -

I'm an architect who has practiced in Berkeley since 1997, and having worked on smaller residential projects, I can attest that the current zoning rules can be tedious and sometimes onerous and that reforms are in order. When negotiating conflicts between our clients and opposing neighbors, I always explained that zoning serves dual purposes: It needs to facilitate the development rights of property owners as well as protect the neighbors from undue negative impacts. The current Middle Housing proposal largely omits the protection component and leaves no opportunity for recourse at all.

I have been vocal in supporting Middle Housing as a means to increase opportunities for first-time homebuyers, for folks pooling their resources to share a duplex, triplex, or quadruplex, for multi-generational living, or small-scale co-housing. However, the current proposal overshoots that mark and opens the door to profit-driven developers who can crowd out the family-friendly scenarios that probably most supporters of Middle Housing envision. Virtually all flyers, media articles, and photos I've seen in City presentations show these smaller-scale scenarios, not apartment buildings.

The primary flaw in the current proposal is the lack of consideration of the cumulative effects of the base zoning plus the ADU allowances, and the potential for State Density Bonus projects that would overrun whatever form-based zoning was intended. I suppose that fervent density-at-all-cost advocates wouldn't mind 42'x91' 5-story apartment blocks landing on typical 50'x100' lots [Note to planners, the rear portion would be attached 2-story ADUs]. But that would not only degrade the existing urban context, but such buildings would also impair each other. The test for a successful typology is that it could be replicated on each parcel, and this is the wrong approach for the long and skinny parcels of the residential neighborhoods in question.

After speaking during public comment at the Planning Commission, several fellow Berkeleyans approached me to help decipher the proposed zoning

metrics, especially the Density Bonus aspect, which is an issue zoning staff has been downplaying, just as the role of ADUs usually only gets mentioned as an aside. Zoning staff argued that the lack of Density Projects in R-3 and R-4 proves that Density Bonus projects are unlikely on small parcels, but the R-3 and R-4 lot coverage allowances are much lower than the 60% under consideration now, and they were developed under very different market conditions. Moreover, inquiring with developers if they'd consider Density Bonus projects is like asking the fox who is guarding the hen house. If you don't intend for 5-story buildings to land in small-scale residential blocks, don't allow them in the first place. One way to achieve that is limiting the number of primary units to four, plus ADUs.

Here is an analysis of different outcomes under the proposed Middle zoning for a typical 5,000 sf lot that includes ADUs in the lot coverage and FAR calculations, even though ADUs under 800 sf are exempt. Any building has real-world impacts, so ignoring the cumulative effect would be misleading, which is why I also include ADUs in the total unit tally.

Here are some scenarios for a typical 5,000 sf lot:

1) 6 units (1,500 sf average) = 6 units total, 9,000 sf floor area, 3-story, 60% lot coverage, **FAR 1.8**

2) 6 units + 2 ADUs (2x 800 sf) = 8 units total, 10,600 sf floor area, 3-story, 76% lot coverage, **FAR 2.1**

3) 6 unit + 3 density bonus units = 9 units total, 13,500 sf floor area, 5-story, 60% lot coverage, **FAR 2.7**

4) 6 unit + 3 density bonus units + 2 ADUs (2x 800 sf) = 11 units total, 15,100 sf floor area, 5-story, 76% lot coverage, **FAR 3.0**

As noted above, a good strategy to guard neighborhoods from being overrun by speculators and to increase the chances for moderate-scale, locally owned development, is to limit Middle Housing on small parcels to four units plus ADUs, as in these alternative scenarios for a typical 5,000 sf lot:

A) Current R-2 zoning, with *doubled density* allowance of 1 unit per 1,250 sf lot area:

4 units (1,313 sf average) + 2 ADUs (2x 800 sf) = 6 units total, 6,850 floor area, 3-story, 56-72% lot coverage, **FAR 1.4**

B) Current R-2 with *doubled density* allowance and *50% lot coverage* for 2-story (now 40%), and 40% for 3-story (now 35%), plus detached ADUs (de facto adding 16-32%), *plus 2 attached ADUs*:

4+2=6 units (833 -1,000 sf average) + 2 ADUs (2x 800 sf) = 8 units total, 6,600-7,600 sf floor area, 56-76% lot coverage, **FAR 1.5**

There is a need for streamlining the zoning ordinance, such as unifying the building separation at 5ft and doing away with onerous requirements such as AUPs for additions over 14ft, which always get approved after all. I'd also support the reduction of front setbacks to allow for more flexibility. But there is merit in adjusting lot coverage based on the number of stories, and/or step-backs on the third floor (or daylighting planes), and differentiating interior lots and corner lots. Such regulations are the product of careful considerations and are objective and evidence-based (sun angles), and it seems nonsensical to trade the scalpel for a blunt tool and a shotgun approach when the goal should be the responsible and contextual blending of higher densities into the residential neighborhoods.

Many density advocates seem to be mainly focused on the total unit count, but the proposed rules diminish the chances for the creation of the truly *missing* middle: relatively affordable opportunities for first-time homebuyers and young families. For that, we don't need more apartment buildings, which are already sprouting along the Avenues and TODs, but rather the smaller end of the Middle Housing spectrum: Duplex/triplex/fourplex typologies (plus ADUs) still foster local ownership and incentivize reasonable densities and growth without massively overbuilt residential lots which create

significant negative externalities for their surroundings and the community at large.

Thank you for your consideration,
Dietmar Lorenz

<2025.06.22 Middle Housing letter.pdf>

.....
d s a architects

dietmar lorenz

architect

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510.526.1935 | www.dsaarch.com

Correspondence

From: Isaac Warshauer <isaacwarshauer@gmail.com>
Sent: Monday, June 30, 2025 3:54 PM
To: Humbert, Mark
Cc: All Council; Planning Commission
Subject: Re: Please Restore the Average Height Limit to the Middle Housing Amendments
Attachments: Berkeley Rooflines.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Councilmember Humbert,

I want to thank you for writing to me about my concerns and pointing out the provisions proposed in the Supplemental now largely adopted at the first reading. I'm grateful that the Council is concerned about providing for a variety of architectural expressions within the controls of the Middle Housing Amendments.

I am concerned that a poorly implemented eave provision may end up encouraging merely superficial gestures or end up privileging very particular design solutions (such as hipped roofs with uniform eaves) over any number of other roof forms that are equally responsive to the context of our city's neighborhoods. Rooflines can effectively reduce apparent bulk. Attached are images of just a few existing examples of this in Berkeley. An eave regulating provision should incentivize a wide variety of roofs, of which these are only a few.

Will staff prepare updated language incorporating the amendments and present that at the July 8 meeting? When will the final language be available? Will there be any opportunity for input and refinement prior to the final vote?

The Middle Housing Amendments squeeze dramatically more density within a zoning envelope that is only slightly larger. This puts pressure on property owners to fill out the zoning envelope in pursuit of greater density. If new buildings will look like the zoning envelope, then the zoning envelope can't just be an inflexible box (objective design standards will be able to do nothing more than dress up this box a little).

I want middle housing, and I want it fast. But it's important that this new housing, although it will necessarily leave our city changed, will not leave our city less beautiful.

Thanks again,
Isaac Warshauer
(919) 448-5073

On Wed, Jun 25, 2025 at 17:01 Humbert, Mark <MHumbert@berkeleyca.gov> wrote:

Dear Isaac - Take a look at CM Kesarwani's Supplemental, just filed. I think you'll find it interesting. Mark

<https://www.dropbox.com/scl/fi/xg4xkzcj3lxwjex14yitc/2025-06-26-Supplemental-Communications-2.pdf?rlkey=b07j6dq5mOgl8onqbvzmb3835&st=qxqq2dz5&dl=0>

Mark Humbert
Councilmember, District 8
City of Berkeley

From: Isaac Warshauer <isaacwarshauer@gmail.com>
Sent: Wednesday, June 25, 2025 11:59 AM
To: All Council <council@berkeleyca.gov>
Subject: Please Restore the Average Height Limit to the Middle Housing Amendments

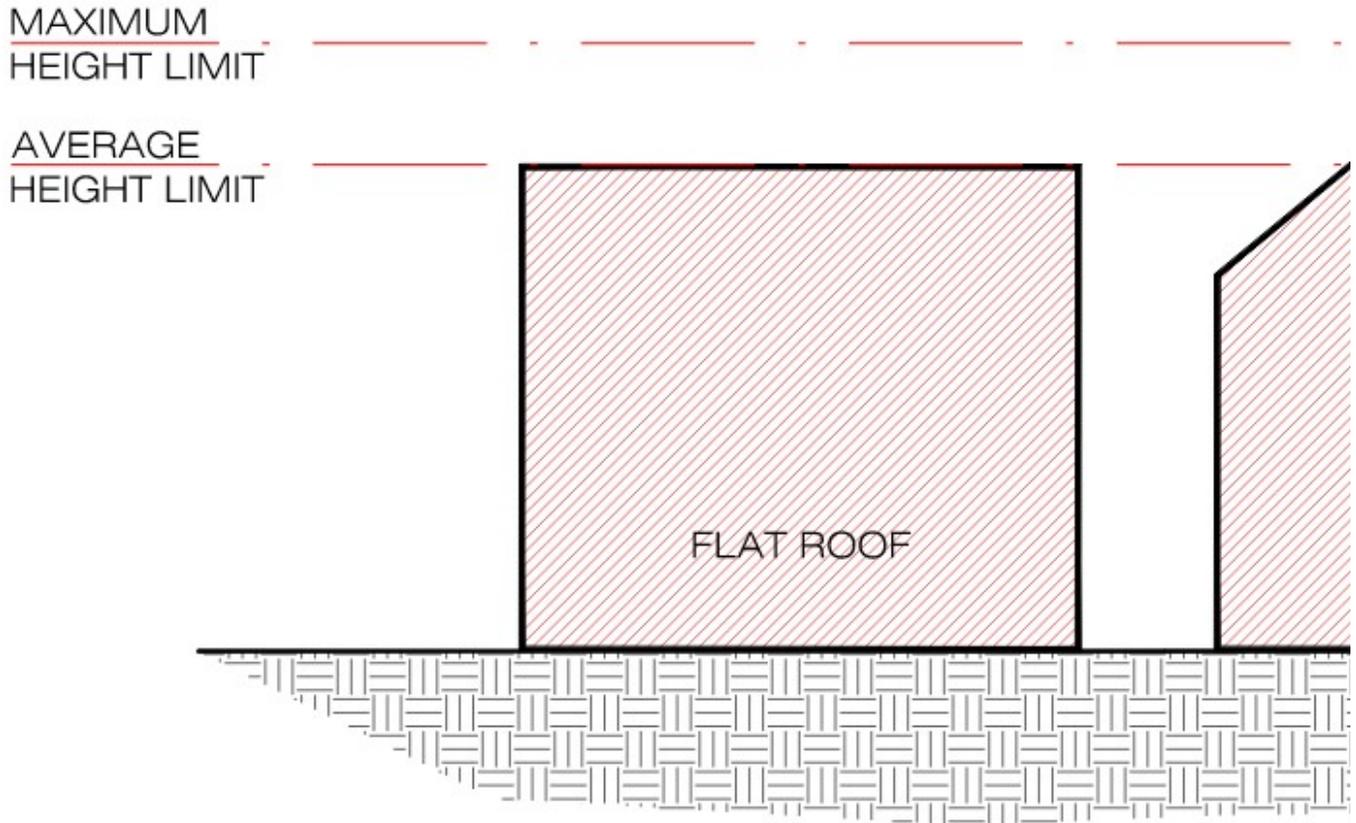
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Dear Councilmembers,

I am an architectural designer and resident of District 8. I am extremely supportive of legalizing multi-family housing across Berkeley, but I have one urgent request for the Council:

Please restore the average height limits to the R-1 and R-2 districts in the Middle Housing Amendments. Average height limits are currently used in the Berkeley Zoning Ordinance to encourage pitched roofs and other visually interesting and contextually responsive rooflines on new buildings.

With an average height limit, designers are incentivized to vary the roofline of a building because they can do so without losing buildable volume (see diagram below).



Without an average height limit, designing anything but a flat roof results in a loss of buildable volume and is thus less attractive to a developer.

Sloping rooflines, including pitched roofs, effectively decrease the apparent bulk of buildings (see diagram above), and they are crucial design tools to help sensitively integrate dense housing within a low density context.

This is an existing bulk control in the Zoning Code, and it is one that both the Planning Staff and the Planning Commission included in their July 23, 2024 proposals to the City Council. Please preserve this crucial tool in the Code!

The average height limit was struck from the proposed amendments by the City Council at that meeting for a few easily refuted reasons.

1) Mayor Arreguín contended that the average height limit encouraged substandard ceiling heights.

- This fails to take into account how an **average height limit actually allows for higher ceiling heights** on parts of the parcel.
- **Building codes already specify standards for ceiling heights.**

2) Mayor Arreguín contended that the average height limit increased construction cost.

- This is completely false. Flat roofs are still possible under an average height limit, and **pitched roofs are arguably the most economical way to roof small-scale residential constructions**. Pitched roofs allow for inexpensive roofing materials that tend to have longer lifespans than low-slope/flat roofs.

3) Mayor Arreguín contended that an average height limit would decrease the energy efficiency of buildings.

- **We don't need to build cubes to build efficiently.**
- Pitched roofs are not complicated to insulate. In fact, a residential pitched roof is arguably easier to insulate than a flat roof.

Please keep this provision!

Thanks,
Isaac Warshauer



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